

INTIMATE PARTNER VIOLENCE:

The Impact of Discourse on a Coordinated Response

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Master of Applied Sociology (Social Research)

Submitted in fulfilment of the requirements for
the degree of Doctor of Philosophy



University of Tasmania

1 July 2012

DECLARATIONS

Declaration of Originality

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1 July 2012

ABSTRACT

The nature of domestic violence service provision has been changing in recent years as a result of the shift towards criminalisation and multi-agency responses. Tasmania introduced criminal justice legislation and an associated policy framework to address intimate partner violence in 2004 which was recognised as best practice. This thesis provides an Australian context to the international debate on the criminalisation of intimate partner violence. The research demonstrates that professional ideologies and organisational discourses influence the implementation of multi-agency responses to intimate partner violence. Using a grounded theory approach with semi-structured interviews and field observations, I explore the discourses employed by police, the legal fraternity and victim advocates to identify three major categories. These are the 'justice' discourse; the 'risk management' discourse; and the 'genuine victim' discourse. This research introduces the work of Hajer into sociology and criminology via an exploration of Hajer's concepts of discourse institutionalisation and discourse coalitions. The contribution of this thesis to the literature is the demonstration that discursive and material practices around justice, risk management and victimisation both converge and diverge to a degree between the government agencies involved in a particular discourse coalition; providing insights on the way in which agents construct the cultural conditions that support or countervail an attempt to manifest widespread social change through legislation. While both the justice discourse and the risk management discourse satisfy the conditions for discourse institutionalisation,

the power of the genuine victim is more subtle and rhizomatic and it achieves significant influence through its insinuation into the other two discourses, effectively providing a gatekeeping mechanism for access to justice. In addition to the findings around discourse, the research has also highlighted issues relating to the implementation of Tasmania's *Safe at Home* policy. The results suggest that the risk framework as practiced by Tasmania police is not universally accepted by all members of the policy network around intimate partner violence. Furthermore, the way in which victims are constructed by police and legal professionals in combination with additional ideological discourses around evidence and legal processes may in fact compromise victim safety.

ACKNOWLEDGEMENTS

Many people have made important contributions to the completion of this dissertation. Firstly, I would like to thank Associate Professor Roberta Julian for her excellent supervision, patience and invaluable support throughout the research and writing phases which enabled this dissertation to materialise.

I thank all those professionals who gave their time to talk to me about the new family violence policy in Tasmania, with special thanks to the Victim Safety Response Teams in Southern and Eastern Districts. I gratefully acknowledge the role of Inspector Mathew Richman in gaining support for the fieldwork component of the research.

I was fortunate to undertake my candidature with the Tasmanian Institute of Law Enforcement Studies, which provided a dynamic and collegial atmosphere and excellent support throughout the project. Heartfelt thanks are due to Danielle Campbell and Mary Eckhardt, my companions on the candidature journey. Thank you for being there in fair conditions and foul. Thank you also to Professor Jenny Fleming, current Director of TILES, for your support and encouragement.

I am grateful for the technical assistance given by Glen Barwick of the Faculty of Arts, and give special thanks to Rose-Marie Vasiljuk for her assistance with transcription. I also thank the administrative staff of the Schools of Government and Sociology and Social Work for their many and varied pieces of assistance.

Finally, I give heartfelt thanks to my wonderful family and friends for keeping me grounded throughout this process. I could not have done it without you.

ABBREVIATIONS

DHHS	Department of Health and Human Services
DoJ	Department of Justice
DPEM	Department of Police and Emergency Management
FVMS	Family Violence Management System
FVCSS	Family Violence Counselling & Support Service
FVIR	Family Violence Incident Report
FVO	Family Violence Order
ICCC	Integrated Case Coordination Committee
PFVO	Police Family Violence Order
RAST	Risk Assessment Screening Tool
RO	Restraint Order
VSRT	Victim Safety Response Team

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1 INTRODUCTION

1.1 OVERVIEW

Intimate partner violence, long recognised as a serious social and public health problem, is now a crime in Tasmania. A comprehensive integrated response to intimate partner violence was introduced in Tasmania in late 2004 through the introduction of legislation which criminalised assault against current or former intimate partners. The initial idea for the research was born out of the questions *How can you legislate for major social change? How will this work in practice?* and *Will victims actually be safer?* Central to the investigation of these questions is gaining an understanding of the intended outcomes of a criminal justice response and then comparing these with what actually happens during the implementation phase. The resulting thesis presents a comprehensive evaluation of central components of Tasmania's *Safe at Home* strategy during the first few years of its implementation.

This opening chapter of the thesis will consider the process by which social problems become defined, and outline the changes to legislation and public policy around intimate partner violence in Tasmania. It introduces the notion of a coordinated policy response and provides details of how this was operationalised in Tasmania. This chapter will also introduce a number of theoretical constructs which will be used throughout the thesis and organises

the key theoretical perspectives within a research framework for the remaining chapters.

1.2 STATEMENT OF THE PROBLEM

Until relatively recently, violence in the home has been treated as a private issue. With significant achievements in the area of women's rights over the last century, community standards have gradually changed – increasingly viewing family violence as unacceptable behaviour. Yet violence at the hands of their partner remains a fact of life for many women. In the broader community the subject has been largely taboo, seen as a private matter, or a pathological fault of the victim for not removing themselves and their children from the relationship. Often when police were called, even though they may have had powers of arrest, they were reluctant to intervene because it was 'just a domestic' and therefore very few offenders were prosecuted. The following section provides a brief overview of the research literature, with more detailed description of the theories and research specialisations provided in Chapter Two.

1.3 SOCIO-HISTORICAL CONTEXT

The crucial initial step in redefining social responses to violence between intimate partners was the recognition that domestic violence was problematic and not a 'normal reaction to stress' or a 'private matter'. The sacred cow of privacy was a huge hurdle to overcome. Police reluctance to intervene

stemmed from powerful historical legal constructions of wives and children as chattels. For example, British common law in the 17th century allowed a man to apply 'moderate correction' to his wife which included confining her to the household but did not explicitly sanction beatings. This law upheld the social consensus that a man's home was his 'castle' and it was his prerogative to use his physical strength both to protect and control his family.

In the second half of the twentieth century, the women's movement was instrumental in lobbying for widespread change which would eliminate violence against women. The re-definition of violence in the family as a social problem required dramatic changes in perspective and led to a vast number of research projects to help understand domestic violence and design interventions. Domestic violence subsequently became defined as a public health issue, a medical condition and eventually a criminal offence (for example Waltermaurer, 2005). These prevailing views (health, medical etc.) informed the development of a variety of social programs and interventions as a result. Early studies helped with the understanding of the nature of perpetration, the cycle of violence, the effect of family violence on children and strategies survivors may develop to resist or escape from violent situations (Humphreys et al., 2005).

The first wave of state responses to domestic violence, in the latter quarter of the 20th century, involved supporting victims to leave violent relationships by

providing practical assistance and counselling. While this approach was extremely important it had no impact on the reduction of the incidence of the violence (as interventions take place after the violence has occurred) nor did the policies attempt to change the behaviour of offenders (Dobash and Dobash, 1992). Towards the end of the twentieth century the broad category of 'domestic violence' was enlarged to include all forms of family violence as well as broken down into subtypes of intimate partner violence, child abuse, sibling violence, elder abuse and so on.

In the last ten years, four main areas have been the focus of policies for dealing with family violence. These are in the areas of law, social services, health and more recently, collaborations between these three sectors. In the legal area policy change has encompassed changes to police powers of arrest; protection and restraining orders; criminalisation; the introduction of specialised domestic violence courts; and improved training of criminal justice personnel. In the social service sector there has been continued focus on shelters for victims as well as peer support and advocacy services. In the health area we have seen increased efforts in screening and identification within medical services and improved mental health services for victims. Additional focus has been on responses to domestic violence which integrate a criminal justice response with a community response, which may also include treatment programs for offenders, shelters, and substance abuse treatment (Mears and Visser, 2005).

Recent contributions to the field of family violence research have included a focus on the histories and trajectories of offenders and victims, in both family and community contexts, as well as evaluations of interventions and their effect on recidivism.

However, despite several decades of intense research activity, there remains a lack of accurate data to reliably measure the prevalence of the different types of family violence. Many jurisdictions lack the ability to mine the information in their own records and there is a corresponding lack of capability to monitor and track cases across agencies. There is also evidence of tension between uniformity of response and community applicability/suitability, meaning there are 'standard' practices that need further evaluation to find out whether they are effective, applied consistently or, in a worst case scenario, cause harm. As well as agency barriers to providing accurate statistics on family violence, there are barriers at the victim level. Reporting of intimate partner violence is low and the longstanding problem of victim non-cooperation with the court system remains an issue into the twenty-first century. Due to the substantial body of research into barriers to prosecution and the complex issues surrounding family violence, particularly in the last thirty years, the legal and policy landscape has also been continually changing as new interventions are implemented and assessed. Research into the implementation of these

interventions provides potential for the discovery of new factors which can further our knowledge.

1.4 THE AUSTRALIAN POLITICO-LEGAL CONTEXT

In recent years there have been a number of significant changes to state domestic violence laws in Australia. In Western Australia, two pieces of legislation were enacted which contained domestic violence provisions. The *Acts Amendment (Family and Domestic Violence) Act 2004* together with an amendment to the *Restraining Orders Act 1997* enacted in late 2004. The amendments broadened the definition of *family and domestic relationship* and expanded the grounds on which a family violence order can be made (Australian Domestic and Family Violence Clearinghouse, 2004). The additional ground of ongoing *emotionally abusive behaviour* was created as well as the ability to protect a child from exposure to domestic violence. The amendments in Western Australia provide for additional police powers to enter premises to investigate an incident of alleged violence. Police can issue on-the-spot temporary restraining orders and can represent applicants in proceedings. In Victoria, the *Crimes (Family Violence) Act 1987* was amended by the *Magistrates Court (Family Violence) Act 2005* in April 2005. The Victorian legislation also includes additional capacity for obtaining an intervention order on behalf of a child if the child has heard or witnessed family violence and is likely to do so again. Children are to be considered by the Court when making

an intervention order and there are new restrictions on the use of children as witnesses. These changes also made a corresponding amendment to the *Magistrates Court Act 1989* to enable the creation of a pilot specialist Family Violence Court. Victoria has subsequently enacted specific family violence legislation. Specialist Domestic Violence Courts were established in New South Wales in 2005 to improve responses to domestic violence at each stage of the criminal justice system (Rodwell and Smith, 2008).

This research focuses on the implementation of a coordinated community response in Tasmania, Australia. Historically, in Tasmania, the systemic response to intimate partner violence has been to support victims to leave violent relationships by providing practical assistance and counselling. While this approach was extremely important, it did not impact on the incidence of family violence (as intervention takes place after the violence has occurred), nor was there any attempt to change the behaviour of offenders (Tasmanian Government, 2003).

In 2003, the Tasmanian government released an Options Paper which outlined a criminal justice framework for responding to family violence (Tasmanian Government, 2003). The family violence strategy introduced in Tasmania in late 2004 is an example of a coordinated community response founded on 'best practice' components identified by national and international research and community consultation. Throughout the thesis the terms 'whole-of-

government', 'coordinated community' and 'integrated' will be used interchangeably to describe the joined-up-government or multi-agency response to intimate partner violence that has recently been introduced in Tasmania. The Tasmanian initiative, entitled *Safe at Home* involves an enhanced pro-arrest, pro-prosecution and pro-interventionist approach to incidents of family violence. The legislation overarching the strategy is *The Family Violence Act (Tasmania) 2004*. The Tasmanian Act was the first piece of legislation in Australia to introduce economic abuse, emotional abuse and intimidation as criminal offences and grounds for obtaining restraint orders. The Act signified a radical change of direction which placed family violence in the criminal justice framework with significant consequences for offenders and greater protection and recognition of adult and child victims. Police in Tasmania were granted increased powers of entry and the ability to create Police Family Violence Orders (PFVO). Penalties for breaches of orders were increased. A breach which exposes a child to violence is considered an aggravating circumstance attracting a more severe sentence. Police are also mandated to notify the Child Protection services if a child is present during a family violence incident. *Safe at Home* has also provided for expanded programs within the wider judicial system and support agencies. A coordinated agency response by key stakeholders includes a 24 hour police crisis line and the creation of specialist police Victim Safety Response Teams (VSRT) in each of

Tasmania's three major regions. Police are also empowered to conduct risk assessments and safety audits. Victims have access to an expanded range of services including court support and victim liaison services, and a child witness program. *Safe at Home* also provides for an offender intervention program.

The key components of the policy are outlined in Table 1.

Table 1 Key components of *Safe at Home*

Component	Detail
Specific legislation	Focuses on the criminal nature of family violence. Allows for family violence orders, police family violence orders, increased penalties for breaches and harsher penalties for violent acts in the presence of children
Family Violence Response and Referral Line	24 hour/ 7 day telephone hotline where operators are specifically trained and make immediate and active referrals for victims.
Victim Safety Response Teams	Additional police recruited and trained to provide enhanced safety management to victims of family violence and a liaison point between affected person, police and other agencies.
Risk Assessment Screening Tool (RAST)	Development and implementation of an actuarial tool to assess the risk of the victim being subjected to further violence.
Police Prosecutions	Additional police prosecutors employed to cover increased workload
Additional court activity	Funding provided to ensure courts have resources to cope with increased workload and to ensure that breaches of FVOs are dealt with as quickly as possible.
Legal Aid	Extension of legal aid to all eligible victims to ensure that they are not disadvantaged by lack of legal representation and advice
Aboriginal family violence working group	Supports the implementation of culturally appropriate responses for aboriginal people under <i>Safe at Home</i> .
Court Support and Liaison Service	New state-wide service to assist victims navigate the legal and court processes and also provide information and referral to services for family violence victims
Child Witness Program	A new service to provide information and support to children participating in legal processes
Family Violence Counselling and Support	Enhanced counselling and support program for adult and victims including new telephone counselling service. Also

Service (Adult and Children)	a new service to provide specialised counselling and support to child victims
Family Violence Offender Intervention Program	New program to assess the ongoing risk an offender poses to their family (using SARA – Spousal Assault Risk Assessment tool) and to provide rehabilitation programs for suitable offenders.

Safe at Home represented a major change of direction. The policy was designed to have wide ranging consequences for offenders and victims and the police, the court system, welfare groups and the community. Its introduction had a dramatic effect on the number of family violence reports; with an increase of 40 per cent in the first few months after proclamation. In January 2005, arrests had increased by 136 per cent compared to January 2004.

1.5 IDENTIFICATION OF THE RESEARCH PROBLEM

As a means of introducing research which focuses on the implementation of criminal legislation to deter behaviour which has been deemed a social problem and a supporting policy framework which introduces services to ameliorate the effects of the behaviour, the following section discusses how social problems and their solutions come to be constructed and framed. The issue of setting the agenda for the framing of intimate partner violence as a problem and proposing particular solutions is important for later discussions about individual and institutional responses to the implementation of the legislation and associated service provision. This section provides a brief discussion on the ways that social problems become defined and solutions to

them are designed. The section concludes with the benefits of using a constructionist framework to discuss the perspectives of the police, the legal fraternity and victim advocates on a criminal justice response to intimate partner violence.

1.5.1 CONSTRUCTING SOCIAL PROBLEMS

There are a number of ways in which a social problem can be defined. Spector and Kitsuse (2001) argue that rather than merely a condition of imbalance in the social structure, or evidence of deviance from the values held by the majority of members of a society, individuals and groups in communities construct theories about social problems and make causal inferences about conditions they find troublesome or intolerable. This is a subjective process.

Various attempts to treat social problems in a scientific manner have proved useless because they have only dealt with the objective side of social problems and have failed to include the attitude that constituted them as problems (Waller (1936) cited in Spector and Kitsuse, 2001).

Waller goes on to argue that the work of those who have tried to deal with social problems scientifically has failed because in attempting to exclude value judgements from their discussion, they have unwittingly ruled out the essential criterion by which social problems may be identified.

Social problems exist within a definite moral universe. Once we step out of our circle of accustomed moralities, social problems cease to exist for us...The existence of some sort of moral problem is the single thread that binds all social problems together ... Value judgements are the formal causes of social

problems, just as the law is the formal cause of crime (Waller (1936) cited in Spector and Kitsuse, 2001).

Social problems are about people and their conditions of life. They are both objective and subjective: objective because they are about real people existing in real life situations but also subjective because differences in individuals' values and understandings will impose variations in importance and severity on a given social problem. To a certain extent we can measure the objective conditions around a social problem (gender, age, number of assaults etc.) but subjective concern is not a static condition. For example, children have always been disciplined and assaulted but only recently have we defined the behaviour as child abuse; the actual behaviour is not new, but worrying about it is new. Similarly we worry about interpersonal violence perpetrated by strangers when the indicators suggest we should worry much more about acquaintance violence.

Donileen Loseke writes about our need to understand the subjectivity of definitions and the process by which humans create, sustain and change meaning (Loseke, 2003). It is a human characteristic to categorise – to label. Social constructionist perspectives encourage us to look more closely at the categories we use to evaluate and make sense of experiences conditions and people e.g. when is a drinker an alcoholic? When is spanking a child abuse? Categories have organising frameworks e.g. the category of food contains

'things we can eat'. But the postmodern world is too big for us to know every individual thing in each category so we tend to typify, creating types as a shorthand method to making sense of the world. This typification is linked to stereotyping but is not the same thing. For example we can view 'baby boomer' as a category or type whereas 'yuppie' is a stereotype. The term 'stereotype' has negative connotations, and connotes caricature and over-simplification.

For Loseke, social problems can be viewed as games with goals, rules, activities and players, strategies and competition. In this analogy, players can be audiences or claims-makers. For example, in the case of intimate partner violence the claims makers might be the criminal justice system or feminists. Claims might be made verbally (written or spoken) and can in some cases constitute rhetoric. There are also visual and behavioural claims e.g. hunger strikes, protests, class actions etc. Different packages or constellations of claims are used to construct victims and villains in particular ways and to promote the 'logical' solutions provided by particular claims-makers. Loseke describes a hierarchy of claims makers with scientists at the top. There is a hierarchy in the audience as well as competition between and within social problems for the attention of the audience. Some of the strategies that might be used by claims-makers to appeal to their audiences are:

- Typifying stories – using one dimension of the problem to illustrate the whole thing e.g. stranger rapes equal all rapes;

- Using extremes to illustrate – the disaster of ignoring carbon emissions; and
- Timing – claims can be most effective at the time of a real life example e.g. gun control after the Port Arthur massacre.

Claims are often framed in a causal manner. In the case of social problems the causes might be claimed to be a result of the social structure, for example the state of the modern family or social forces as demonstrated by sexism, ageism or individualism. For these causal frames to persuade they need to be constructed so that they appeal to our logic (or our emotions – how we feel about something rather than how we think about it). They must be historically and culturally appropriate i.e. appealing in Australia at the current time.

Examples might be claims made under the banner of individualism which appeal to our values of individual freedom and responsibility; claims under capitalism might include that 'market forces are the best regulators'; and claims around the family being the natural unit of society. A claim against to our belief in fair play might focus on our rights to equal opportunity and equality under the law.

Using this type of framework, domestic violence violates our belief in fair play, family and individual responsibility as well as evoking anger and perhaps a degree of fear. We also use the frames to construct victims and perpetrators using formula stories which hook into these frameworks. For example, a 'fair

play' construct would construct a 'deserving' victim who is not responsible for the violence and thus requiring sympathy and help. The flip side is the undeserving victim who provokes violence or perhaps the individualist construct might be employed which insists that 'it can't be that bad if she keeps going back to the relationship' or 'she must enjoy it'. This individualist construct causes people to assemble plausible stories about whether the perpetrator intended to do harm; whether they had a 'good' reason or whether it is perhaps possible for blame to be deflected because of a medical condition. The media will usually tap into one or more of these constructs/formula stories in packaging their reports around family violence and other social problems, which assists in both reinforcing the construct and justifying the solution as rational and 'natural'.

1.5.2 CONSTRUCTING SOLUTIONS

Solutions are also subject to framing. It is quite common for frames to be presented in a diagnostic manner where the problem is framed in ways to suggest the solution; for example a call for increased funding for shelters might be framed in terms of women trapped in abusive marriages. They may also be presented in a prognostic manner, providing solutions which predict future outcomes. Prognoses would see the solution as quite different depending on the moral position of the claims maker; for example needle exchange programs prevent AIDS or promote drug use. The construction of the solution also has

consequences. For example a 'War on Drugs' constructs drug abuse as a crime rather than a health problem and this has consequences for the policy arena in terms of resources, time and energy. Policy decisions might be formulated differently for dissimilar groups and this might be dependent on whether the claims makers have constructed the groups positively or negatively and the level of political power wielded by the group.

Table 2 Matrix of construction of social problems audiences

	Positive Construction	Negative Construction
High Political Power	Grey voters	Forestry companies
Low Political Power	Children	Drug addicts

For example government is sensitive to the purchasing and voting power of the baby boomer cohort and keen to harness the goodwill of this group. On the negative side, forestry companies can have high political power but solutions which are seen to prioritise their operations over local communities and the environment will not be popular with the general public. Drug addicts and children have low political power but drug addicts are constructed negatively in they are labelled culpable in their addiction, while children are constructed as both vulnerable and providing future social leaders.

Strategies that might be deployed in the justice policy arena may include constructing problems at the right time so that solutions are seen to solve the emergency or moral panic evidenced by public opinion such as declaring war on a contemporary social problem. Solutions might also be framed in ways that seem relatively easy and relatively inexpensive – for example giving police

extra powers to police new regulations which focus on the need for individuals to change their behaviour as in enacting legislation to deter intimate partner violence. Constructing the problem and solutions using the language of science and the law feeds into modern sensibilities of rational behaviour, stable institutions and governance and the involvement of experts in designing a solution (Foucault, 1991, Loseke, 2003, Foucault, 1972). Legal and scientific institutions are regarded as both rational and stable and their judgements are difficult for the general population to refute. Other strategies that might be deployed include developing partnerships with other bodies (e.g. police forming partnerships with the hospitality sector to deal with alcohol fuelled violence) or developing joint strategies at government level using other agencies or cross-party committees to demonstrate the government's commitment to alleviating the social problem.

This work around constructing and defining social problems and their solutions can at the same time reproduce a problem by confirming its existence and guaranteeing services and resources to address the issues around the problem.

However, formulaic stories around social problems can also create fragmentation in terms of solutions. Where problems are narrowly defined, gaps can be created whereby people do not fit into neat classifications. One example might be where a sole parent might be eligible for rent assistance if they are residing in a private market rental, but if their former partner is

refusing to make mortgage payments so that the payments fall into arrears, the sole parent is not able to access any type of housing relief scheme because they are constructed as a 'home owner'. The most successful social problems stories contain extreme plots with the purest of victims and most evil of villains but real people, not constructed types of people, enter the 'troubled persons industry' (Loseke, 2003), and these real people may find that solutions in the shape of resources and services are directed in a certain direction which may not meet everyone's needs.

At the individual level, workers in a policy context might use a combination of their own practical/life experience; popular wisdom; constructs around cultural feeling/beliefs (deserving clients); and their local and/or organisational culture (e.g. police culture) to construct their individual behavioural and emotional responses to social problems. Loseke makes the point that the claims at the base of the constructs do not need to be true, only that the actors involved believe them to be true and structure their behaviour accordingly (Loseke, 2003). Clients of social problems services also use the belief system at the base of the claims to construct or reconstruct themselves in order to conform to the problem story to gain support or services while others will want to be as different as possible from it.

The brief discussion above has introduced the argument that social problems are not objective conditions. Spector and Kitsuse (2001) argue that a

constructionist framework enables the researcher to conduct empirical investigations in situations where the processes of definition are the central concern rather than objective conditions. Constructionists concentrate on the activities of people, focussing on how humans interpret or make sense of their lives and how these meanings are shared. For Berger and Luckmann (1966), social constructionism is a way to explain the process by which knowledge is created and assumed as reality. Individuals and groups interacting together in a social system form concepts or mental representations of each other's actions, and these concepts become habituated, over time, into reciprocal roles played by the actors in relation to each other. When roles are made available to other members of society to enter into and play out, the reciprocal interactions are said to be institutionalised. In the process of institutionalisation, knowledge and people's conceptions (and beliefs) of what constitutes reality becomes embedded in the institutional fabric of society. Social reality is therefore said to be socially constructed.

1.6 OVERVIEW OF STUDY APPROACH

At the outset of the project the main focus of this research was the forensic use of risk assessment. At the end of 2004 the risk assessment tool designed by Tasmanian Police and the capacity of the risk assessments to be used to deny bail attracted considerable criticism from magistrates, civil libertarians and the men's movement. I used a database of 906 risk assessment tools from the first

year of the implementation of *Safe at Home* as the basis of my enquiry, which was to be supplemented with observations of police training and a suite of interviews with police, victims and men who were enrolled in an family violence offender rehabilitation program. The interviews were to focus on risk factors and the major indicators that violence would escalate in a relationship. As the fieldwork unfolded, the material arising from the interviews with police officers and magistrates began to yield an interesting array of discourses around the implementation of the program and this became the focus of the research. Risk remained a significant element of the research; however it evolved into one of a group of discourses used by members of the criminal justice system. Analysis revealed considerable divergence between discourses within the agencies involved in implementing the legislation and the objectives of the study changed to focus on the exploration of these discourses.

The police were regarded as an important site for study due to their pivotal role in the definition of the problem and the subsequent solution. Police provide the definition in the first instance as whether an incident is indeed family violence and determining the action to be taken. Police attitudes to intimate partner violence, the legislation and the new powers it bestowed on them, and the knowledge and skills that they bring to their decision-making in investigating a family violence incident are fundamental to the success of the legislation and its associated policy framework.

Under the *Family Violence Act 2004* operational police are the first response to family violence incidents. They assess whether a reported incident is a 'family argument' or a 'family violence' matter; investigate any criminal offences; and administer a risk assessment screening tool with the victim. Operational police determine the appropriate charges; issue Police Family Violence orders (PFVO) or make applications for a Family Violence Order (FVO) before a magistrate if the risk assessment is deemed high; determine bail and prepare oppositions to bail if the risk to the victim is too high if the offender is released from custody. Operational police are also responsible for notifying Children and Family Services in cases where a child is affected by family violence. Police Victim Safety Response Teams (VSRTs) are specialist police that work with the victims and any children to minimise risk and maximise safety through a variety of mechanisms including the preparation of safety audits of property, safety plans and implementing security upgrades where appropriate; the provision of quality assurance and review of the decisions of operational (first response) police; and the coordination of cases in families where there is significant ongoing risk of violence. There is a VSRT in each of the four Police Districts in Tasmania (see Appendix A for a map of the Police Districts). The VSRT is a part of the Integrated Case Coordination (ICC) committee in each region which assesses applications to vary PFVOs.

The legislation and criminal justice framed solutions impacted on the work of magistrates and legal practitioners and so these were a second site for obtaining feedback on the implementation. Magistrates were also seen as an important site of the study because of their role in the interpretation of the legislation and associated policy. The role of victim advocates had changed as a consequence of intimate partner violence being reframed as a criminal justice problem and so this group also formed an important part of the study. Finally, all these groups form part of the social milieu in Tasmania and wider Australia and so general public opinion around intimate partner violence was also monitored during the research.

The initial research focus was the forensic use of risk which sat at the core of the revamped police response, including the risk assessment tools and risk minimisation processes used by Tasmania Police when responding to a family violence incident.

The group of potential interviewees was expanded to include associated components of *Safe at Home*, namely police prosecutors, Legal Aid and the Family Violence Counselling Service. Under *Safe at Home*, six specialist police Prosecutors were funded to improve the quality of information provided to the Courts in regard to the risk and safety aspects of family violence matters. Police Prosecutors attend the integrated case conferencing (ICC) meetings. The Legal Aid Commission received additional funding to provide legal advice to

victims of family violence as well as assistance with court processes such as applications for FVOs. The Domestic Violence Counselling and Support Service (DVCS), located in the Department of Health and Human Services, assist victims in the recovery of family violence via counselling, group work, referral and support and are also part of the ICC. I also monitored public discourses throughout the period of the study, focusing on press and television coverage of family violence and the associated public response via online forums.

1.7 RESEARCH QUESTIONS

The overarching question for this study is what impact does a coordinated criminal justice response have on intimate partner violence in Tasmania?

This question was broken down into four sub-questions, being:

- How do the component parts of the justice system respond to making intimate partner violence a criminal offence?
- Is there evidence of competing discourses amongst the component parts?
- What are the consequences for victim safety?
- How effective is legislation as an instrument for social change?

Policing through networks, also known as community policing, or whole-of-government or sometimes joined-up-government is the dominant strategy in Australia and the UK (Fleming and Rhodes, 2005, Homel, 2004). Whole-of-government approaches require a high level of policy, program and organisational integration to the point of joint or collective action and shared

or mutual responsibility for performance and outcomes (Homel, 2004). The implementation of a whole-of-government program has significant practical implications for day to day operations. Existing programs and processes of the partnership agencies might need to be changed or adapted. Some important areas might include:

- the need for processes such as pooled budgets;
- partnership arrangements (for example, non-government/voluntary sector, private sector, other levels of government such as local government);
- revisions of relationships between existing service providers and clients;
- coordination of service delivery and tendering with partner criteria;
- integrated planning and triple bottom line analysis (i.e. assessing economic, environmental and social impacts);
- innovative community consultations, engagement and joint management arrangements;
- joint databases and customer intake and referral mechanisms; and
- joint performance measures and indicators (Homel, 2004).

During the course of my fieldwork it gradually became evident that the different components of the Tasmanian coordinated response to intimate partner violence used different discourses to ‘explain’ or theorise around the behaviours of victims, offenders and their own organisations. However, the observed phenomena did not fit with the literature on policy communities and policy networks. The policy network literature divides roughly into two strands: one conceives of networks as interpersonal relationships; the other, which is dominant among political scientists and public policy analysts, conceptualises networks as structural linkages between corporate public and

private actors. Some scholars rely on qualitative methods to map policy communities/ networks while others adopt more quantitative methods. Network analysts' theories of human behaviour span rational actor, institutionalist, and constructivist approaches. (Skogstad, 2008). Pross (1992) describes a policy community as a network of individuals, groups, government departments, organisations, and agencies that dominate decision making in a specific policy field.

Without the policy community's special capabilities for studying alternative courses of action, for debating their rival merits and for securing administrative arrangements for implementation, governments would have great difficulties discerning and choosing between policy options ... pressure groups [are] integral members of the policy community, [with their] ability to evaluate policy and develop options. (Pross, 1992).

Whereas the traditional conceptualisation of a policy community was either government driven, government led or at least sanctioned and tacitly approved, the emerging definition of a policy community tends to refer to a structure that is more independent and grassroots. There is more access for the general public and issue-specific pressure or lobby groups. Electronic communication and the Internet are demonstrating an ability to open up and "democratise" policy discussions. The observed clusters of actors around the observed discourses were all sub-agencies of government. Whilst there was a public discourse around intimate partner violence, this was experienced as

background noise rather than lobby groups that might be active in another policy space.

As I was using a grounded theoretical approach, I found the work of Marten Hajer and his concepts of discourse institutionalisation and discourse coalitions useful to as an analytical framework. Within in the field of environmental policy analysis, Hajer uses the concept of 'storylines' (Hajer, 1995) to introduce his concept of discourse coalitions. Storylines refer to condensed statements which summarise complex narratives, and are used by people as a type of short-hand in discussions. Mostly people do not tell the whole story but use short cues. The storyteller usually assumes that the meaning that the receiver receives is the same as the sender intended to put into the message. Hajer maintains that this assumption of mutual understanding is false and that storylines are the medium through which actors try to impose their view of reality on others. This might involve the suggestion of certain positions on an issue, certain practices or criticism of alternative policies or social arrangements (Hajer, 2006). He also suggests that actors from different backgrounds can form specific coalitions around specific storylines.

A discourse coalition is the ensemble of a set of story lines, the actors that utters these story lines, and the practices that conform to these story lines, all organized around a discourse (Hajer, 1993).

A discourse coalition can be said to dominate a given political realm only if it fulfils two conditions:

- it dominates the discursive space (discourse structuration) that is; “central actors are persuaded by, or forced to accept, the rhetorical power of a new discourse”; and
- this is reflected in institutional practices (discourse institutionalisation) that is; the actual policy process is conducted according to the ideas of a given discourse.

Discourse coalitions form amongst actors that congregate around a particular way of conceptualising a policy problem. They use the same storylines or are oriented towards the same way of thinking (even if they may have arguments within that discourse). Hajer argues that it is not their institutional position that one uses as the starting point but the empirically observable shared discourse. The difference between the discourse coalition approach and a network approach is that a discourse coalition approach explains why a particular network shapes up and what holds it together. In network approaches reference is often made to the interests of the various actors. A discourse coalition approach would refer to the shared discourse which also explains the perception of interest among the various actors. Using discourse coalitions as a framework takes the explanation beyond mere reference to interests, by illuminating how interests are played out in the context of specific discourses and organisational practices; and clarifies how different actors and organisational practices help to reproduce or challenge a given bias without overtly orchestrating or coordinating their actions or without necessarily sharing deep values.

Hajer (2006) argues that *discourse structuration* occurs when a discourse starts to dominate the way a given social unit conceptualises the world. The process involves the actors who use a certain discourse developing perceptions about the world, tools and a shared language. Using the legal fraternity as an example the discourse might be 'justice' and the perceptions or concepts might be equality before the law, strategic behaviour might be courtroom protocols which become institutionalised as 'best practice' or 'normal'. Figure 1 is adapted from Hajer's (1993) description to illustrate the process.



Figure 1 The process by which a discourse becomes institutionalised

If a discourse solidifies in particular institutional arrangements (e.g. a measurement system such as risk assessment processes) then we speak of discourse institutionalisation. If many people use it to conceptualise the world it is structuration, if it solidifies into institutions and organisational practices it is *discourse institutionalisation*. If both criteria are filled then a particular discourse is dominant and associated policies are conducted according to the ideas of a given discourse.

1.8 SIGNIFICANCE OF THE RESEARCH

The discussion in this section centres on why this research is important and what new concepts, theories and research tools and techniques it contributes to the field of sociology.

There is an urgent need for continuing empirical research into the effectiveness of family violence interventions. In Australia and elsewhere, a great deal of time, money, energy, and expertise is being invested in the management of intimate partner violence by governments in each state and territory in order to develop a comprehensive infrastructure to support the prosecution of offenders and improve the safety outcomes for adult and child victims of family violence. Generating deeper understanding of discourses around risk, victimisation and forensics will add to the body of literature around intimate partner violence. The study is also significant because it makes visible the taken for granted assumptions that underpin the activities of the criminal justice system in Tasmania. This research examines the micro politics of power, the way language produces people, places and practice in particular ways. In doing so, it introduces new concepts and theories that can be used to engage effectively with the themes and concerns of contemporary Australian sociological and criminological research. There is a subset of the family violence literature which has discussed the ways in which victims are constructed by the different elements in the criminal justice system and this

research adds to this body of work. The research makes a significant contribution to the understanding of the dynamics involved in implementing a whole-of-government policy.

At the same time, in all research there are boundaries that must be acknowledged. These boundaries are the focus of attention in the next section.

1.9 THE SCOPE OF THE RESEARCH

This research project explores how the components of the criminal justice system delivering a whole-of-government policy work together to implement the Tasmanian family violence policy framework, *Safe at Home*. The project commenced during the first few months of the policy rollout, providing a unique opportunity to observe the execution of a policy designed to drive social change.

A range of qualitative methods was used with a small purposive sample to provide rich, thick descriptions (Geertz, 1973) that permitted a contextual understanding of the day-to-day operation of the management of victim safety in Tasmania. From particular and unique descriptions of fieldwork with police, magistrates, victim advocates and other legal professionals (Simons, 2009), readers are encouraged to consider the applicability of Hajer's theory, developed in the discipline of environmental studies, to a sociological and criminological subject such as intimate partner violence.

This study provides a detailed account of the way language is used between agents in an environment which constructs and delivers complex social policy. The findings suggest that risk assessment as practiced by Tasmania police is not universally accepted by all members of the policy network around intimate partner violence. Furthermore, the way in which victims are constructed by police and legal professionals and additional discourses around evidence and legal process may in fact compromise victim safety.

Finally, it is necessary to acknowledge that the socially constructed nature of interpretations is foundational to this research. This means the information shared by the research subjects may also have been influenced by their pre-existing world views and experiences. Similarly, my own world view and experiences have shaped the questions I have posed and the areas I have investigated. I have not personally been a victim of intimate partner violence but developed an interest after finding out after the death of friend, that she – an assertive, well-educated, physically strong woman – had been victimised by her second husband. Likewise the extent to which the reader engages with the findings presented in this study will also be influenced by their own worldview of intimate partner violence.

The participant observation and interviewing approaches to data gathering in this study have yielded an in-depth and intensive understanding of the particular aspects of the response of the Tasmanian criminal justice system to

intimate partner violence. While it is important to appreciate each setting as a unique context (Simons, 2009), the study may offer some general insights relating to the way in which agents construct the cultural conditions that support or countervail an attempt to manifest widespread social change through legislation.

1.10 OUTLINE OF THE THESIS

This opening chapter of the thesis has considered the process by which social problems become defined, and outlined the changes to legislation and public policy around intimate partner violence in Tasmania. It introduces the notion of a coordinated policy response and provides details of how this was operationalised in Tasmania. It has also introduced a number of theoretical constructs which will be used throughout the thesis and organises the key theoretical perspectives within a research framework for the remaining chapters.

In Chapter Two, the literature on intimate partner violence is briefly reviewed for two purposes: initially, to situate this study in the body of scientific and expert knowledge from a variety of disciplines; and secondly, to use the literature as a data source to examine how intimate partner violence has been constructed by previous researchers. These constructs will be revisited in Chapters Four through Seven.

The third chapter of the thesis examines methods used in this study. As well as explaining the rationale for using a grounded research methodology and discourse analysis, this chapter details procedures for setting up the study including identification of the sources, sampling procedures, ethical considerations and the process of negotiating access to research subjects and research sites. The data collection techniques of fieldwork (observation-of-

participation, field notes and field interviews) are outlined. A detailed description of a data set of risk assessment tools is also provided in this section.

The following chapters examine the dominant storylines which emerged from the fieldwork. Chapter Four introduces the storylines used by police in Tasmania when discussing the details of the implementation of the policy. Police storylines include narratives about the process of conducting risk assessments and processing of police family violence orders as well as insights into how victims and offenders are constructed by frontline officers. Chapter Five introduces the storylines used by victim advocates around services for victims and how family violence matters are dealt with by the police and the Court system. Chapter 6 presents the voices of the legal fraternity (magistrates and solicitors in government and non-government services and in private practice.

The concluding chapter synthesises the storylines into three main discourses of 'risk management', 'justice' and 'the genuine victim'. This chapter also examines the efficacy of Hajer's theory of discourse coalitions and discourse institutionalisation in understanding the how the discourses operate around intimate partner violence in Tasmania and argues that the justice discourse is dominant in this policy environment. However the genuine victim discourse, while it does not meet the overt requirements for a discourse to be encoded into institutional practice, operates in a more subtle and insinuating manner to

permeate both the justice and the risk management discourses and is therefore also a significant and powerful component. The genuine victim discourse acts as a triaging method for both police and the justice system in their management of the response to victims and thus impacts on victim safety. The chapter also presents an overview of the strengths and imitations of the research as well as suggesting directions for further research.

2 THE PROBLEM OF INTIMATE PARTNER VIOLENCE

Violence against intimate partners has generated a vast literature over the past fifty years in disciplines as diverse as law, psychology, criminology, public health (medicine and nursing), policing, public policy and social work. This chapter provides the academic context, within which this research is situated, as well as a brief history of the legislative and policy responses to intimate partner violence which led to the development of the coordinated response in Tasmania.

Throughout this work the term *intimate partner violence* will be used to describe the phenomenon which elsewhere may be variously termed battering, wife/spouse abuse or domestic violence.

Table 3 Categories of intimate partner violence

Category	Behaviour
Physical	bashing, hitting, punching, kicking and using a knife or gun
Psychological, emotional or verbal	threats, harassment, and denigration of the partner's capacity as a parent, person or housekeeper.
Social	enforced isolation of the partner from social contacts and friends
Economic	denial of money and access to a car etc
Sexual	non-consensual sexual acts, perhaps including threat or use of a weapon

The term intimate partner violence offers a gender inclusive term to distinguish the violence between people who are, or have been, in an intimate

relationship from other forms of family violence. The term is equally applicable to marital, common law or dating relationships and homosexual relationships and understood to encompass a range of forms of violence – physical, emotional, sexual, economic – used to inflict harm within an abusive intimate relationship (Elliott & Shanahan Research (1988) cited in Mugford and Mugford, 1992).

It has been an important development to include a range of behaviours in the definition of intimate partner violence, recognising that the non physical forms of abuse can be more devastating than the physical, and more difficult to prove (McKinnon, 2008). These emotionally abusive behaviours, together with physical abuse, produce a climate of fear in which victims are terrified into compliance with their partner's wishes.

2.1 PREVALENCE

The precise incidence of domestic or intimate partner violence in any population is difficult to assess as it very often goes unreported. Surveys from Australia, Canada and the USA in the past 10-15 years have estimated domestic violence to have been experienced by between one quarter and one third of all women during their lifetimes. The *Personal Safety Survey* published by the Australian Bureau of Statistics in 2005 found that of those women who reported a physical assault in the 12 month period prior to the survey, 31% were assaulted by a current or previous partner, compared with

4.4% of men who were assaulted by a current or previous partner (2005 reissue) Where they exist, criminal victimisation studies of general populations suggest that official statistics significantly under-report intimate partner violence,' with researchers estimating that less than one third of any kind of assault is reported to the police (Felson et al., 2002, Felson and Paré, 2003). The 2005 Personal Safety Survey supports this, reporting that police received a report of the assault in approximately 31% of cases (29.2% if the victim was male and 34% where the victim was female). The offender is known to the victim in 73% of cases where the victim was female, and in 47% of cases where the victim was male. The offender was a current or former intimate partner for one in 5 females compared to one in 25 males (Australian Bureau of Statistics, 2005 reissue).

The literature on all kinds of violence observes that most violence is perpetrated by men (and most often also against men). However, men's violence against women is extremely pervasive, with the United Nations estimating that millions of women around the world are being physically and sexually abused each year, mostly by men with whom they are in a relationship, or were previously (United Nations Population Fund, 2005).

Most incidents of violence against women where the victim knows the offender are unreported (Carcach, 1997) so it is difficult to measure the true extent of the problem. There are debates about how we measure the

prevalence of intimate partner violence. There are criticisms about prevalence studies using both official statistics and national surveys. In official statistics, this is due to different definitions of what constitutes domestic violence between jurisdictions which makes aggregations of data difficult. Some jurisdictions do not collect data separately on domestic assault separate from other types of violent crime. Some police organisations do not record domestic violence unless an arrest has been made. In survey research, rates for domestic violence are usually determined by asking if an individual has experienced an act of physical (or other types of violence) within the prior year or in his or her lifetime. Typically, this information is presented as a percentage for the past year, lifetime prevalence, or both. Thus, prevalence rates are dependent not only on the definition, but on the population being surveyed. Many studies are done in health care settings, shelters, mental health units, or at colleges or universities, and these populations would likely report strikingly different prevalence rates. Even using national surveys, different results can be achieved depending on the instruments used and the focus of the survey (crime, safety, and health). Domestic violence includes a wide variety of behaviours which make it difficult to measure. Rather than individual acts of violence, much of the violence perpetrated in relationships constitutes a pattern of behaviours, varying in intensity and severity. One of the issues with self-reported data, including national surveys, is that a

proportion of victims do not associate the words 'violence' or 'assault' with the experience of physical, particularly sexual, and emotional abuse in their relationships because common sense definitions associate these terms with intent to do harm or actually inflicting injury (Fantuzzo et al., 2007, Buzawa and Buzawa, 2003, Straus, 1999). Finally, even if victims do associate their experience with the current definitions of intimate partner violence, they may not remember or may not be willing to acknowledge its occurrence.

Recent research acknowledges that women initiate violence at rates similar to men (Dasgupta, 1994, Flynn, 1990). However, women's violence generally does not lead to major injury on the part of men and more often results in injury to the woman. Male initiated violence often results in injury to women and rarely to the perpetrator (Bagshaw and Chung, 2000, Flood, 2006).

Victims typically endure a history of abuse and brutality from their partner, and only call police in the most threatening of situations i.e. when their repertoire of coping mechanisms is exhausted.

Many authors refer to a cycle of abuse (first described by Walker in 1983) to illustrate common patterns (see Figure 2). Tension builds up prior to violence, which is followed by a period of relative calm creating an 'unpredictable ...response/outcome pattern that creates ... learned helplessness' (Walker, 1984). The cycle is repetitive with an increase in severity of the violence over time and is thought to affect about 60% of victims (Taft, 2002). The concept

of learned helplessness was used to discuss similarities between abuse victims and those suffering major depression or post-traumatic stress disorders.

2.2 REPORTING

Factors that precipitate or inhibit reporting are still poorly understood but some researchers have estimated that typically 20 violent incidents have occurred before the first report to the police (Millbank, 2000).

Apart from protection of privacy Hoyle found that the three main reasons for not reporting are not wanting to break up the relationship, fear of retaliation and a belief that involving the criminal justice system was not worth the ‘cost’ to the victim (Hoyle, 1998). The reasons women seek assistance from the legal

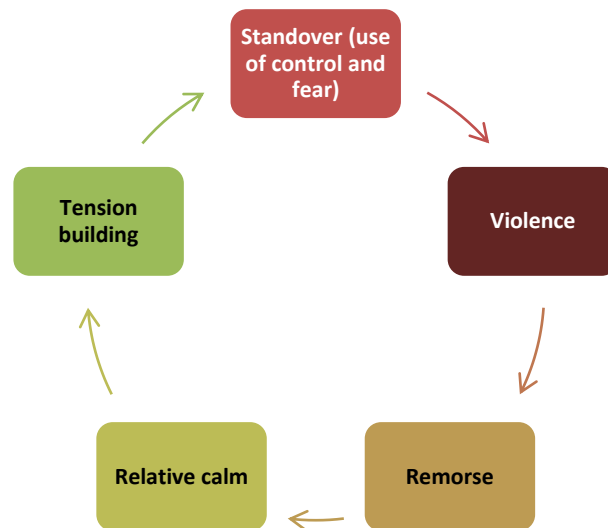


Figure 2 The Cycle of Violence

system can be for protection, prevention (deterrence) or rehabilitation of their partners. But equally, we find that often criminal justice responses are

not always aligned with the needs and motivations of the caller and can also be a deterrent to reporting.

Women's reluctance to report has been attributed to the belief that police do not take these reports seriously (Fyfe et al., 1997). The attitude of police is paramount here; insensitive responses to an initial report could discourage a victim from taking further action. Lievore found a number of women who encountered misogynistic attitudes or felt 'fobbed off' or that they were 'wasting' criminal justice officials time (Lievore, 2005:vi). Almost a quarter (23 per cent) of the women in this study said they would not report again because they had not received substantive or procedural justice. These experiences may have included restraining orders that were not enforced, difficulty in providing evidence of the kind 'that would stand up in court' and lack of child support (Horrill and Berman, 2004). Atkinson suggests that for some Aboriginal women, the justice system may pose a greater threat to her sense of security than the actual crime (Atkinson, 1996).

Studies on incentives to reporting are less common. Felson and his colleagues reported in 2002 that one third of reporting victims wanted immediate protection; another third wanted the perpetrator calmed down without further legal action while the remaining third wanted the perpetrator arrested (Felson et al., 2002). Other factors that have been found to influence calling the police are:

- if partner used a knife or gun;
- if there was severe sexual violence; or
- severe physical violence;
- if there were children at home then victims are 32 per cent more likely to call;
- if perpetrator has substance abuse problem;
- perpetrator has prior intimate partner violence arrest; or
- if the relationship was de facto (married women made 33 per cent fewer calls) (Bonomi et al., 2006).

Mama (1989) suggested that some sectors of the community were more likely to call the police than others, because they lack family and community supports and also because police are the only emergency service available 24 hours. Sherman estimated that 20 per cent of couples accounted for 50 per cent of police call outs (Sherman, 1992).

Abuse victims often suffer mental illness, alcohol and drug abuse, high rates of smoking, poor diet, eating disorders and STDs because of the abuse. Some studies have found that women in physically abusive relationships tend to be critical and 'verbally offensive' and engage in high levels of overt negative behaviours during conflict situations (Margolin et al., 1998, Frude, 1994). A re-visiting of the Australian 1996 *Women's Safety Survey* found that younger women are more likely to be assaulted but less likely to report the assault. Australian born women were less likely than overseas born women to report physical and sexual assault. More socioeconomically disadvantaged women

were more like to report assault or use professional help services but low levels of education are related to not reporting (Coumarelos and Allen, 1998, Taft, 2002). While intimate partner violence is prevalent across all socioeconomic groups, it seems clear that low income, unmarried, separated or divorced and poorly educated women are more at risk than others. As Aboriginal women have many of these characteristics, they may be at particular risk.

2.3 A HISTORICAL REVIEW OF INTERVENTIONS FOR INTIMATE PARTNER VIOLENCE

The governments of the United Kingdom, USA, New Zealand, Canada and Australia embarked on the development of public policy around intimate partner violence from the 1970s in response to pressure from the women's movement (Dobash and Dobash, 1992, Schechter, 1983, Ferraro, 1996, Guzik, 2009, Buzawa and Buzawa, 2003). The first shelters for 'battered' women were introduced in the USA in 1967 (Barner and Carney, 2011) followed by a London shelter in 1971; with the first Australian shelter opening in Sydney in 1974 (McFerran, 2007). Over the next decade the focus was very much on violence against women. The US enacted a *Violence Against Women Act* in 1984. The first specific domestic violence legislation in Australia was the *NSW Crimes (Domestic Violence) Amendment Act* proclaimed in 1983 which had power to exclude offenders from their homes (as did the Victorian *Crimes (Family Violence) Act 1987*) but the usual practice was that women and

children were removed from their residences and relocated into crisis accommodation. What was obvious was that cases of intimate partner violence were not dealt with in the same way as other assaults by both police and the courts. Family violence researchers in the 80s were highly critical of police - for failing to attend; having greater concern for officer safety than safety of family members; reluctance or refusal to arrest; exhibiting unsympathetic or unhelpful stances towards victims; and generally ineffective intervention which required repeated attendances (Bouffard and Muftic, 2007, Sherman and Berk, 1984, Steinman, 1991). Carolyn Hoyle described a situation of general reluctance to intervene by police at the scene of the incident, and if arrest took place described further barriers raised by custody officers. Very few perpetrators were prosecuted, and if charged, the charge of 'actual bodily harm' was often downgraded to common assault (1998). Betsy Stanko commented that an offender was more likely to be arrested for abusing police in the context of investigating the domestic violence incident than assaulting his partner (Stanko, 1995).

Police officers have been accused of not recording incidents of domestic violence which was seen as further aggravating the hidden nature of domestic violence by adding under-recording to under-reporting on the part of victims. Additional criticisms have been made regarding the failure of police to provide victims with advice about safety and security or conversely, using referral to

other agencies as a substitute for law enforcement (Eisikovits and Edleson, 1989).

There were a number of studies at this time around police officers' attitudes to domestic violence. For example, Joanne Belknap, Eve and Carl Buzawa and others report that there is a raft of situational factors that could influence officer response. These include whether the victim has visible signs of injury; whether the officer has actually witnessed an act of violence; whether substance abuse is involved; whether the officer is aware of previous reports from the household and also the neighbourhood in which the incident occurs (Logan et al., 2006, Belknap, 1995, Buzawa and Buzawa, 2003).

In 1984, Tracey Thurman successfully sued the City of Torrington (Connecticut, USA) for failing to adequately protect her in a case of domestic assault. This case was a catalyst for major reforms in law enforcement of domestic violence throughout the 1980s and 1990s.

By the late 1980s forty eight US states had legislated for increased victim protection and strengthened enforcements of restraining orders, and 90% of cities in the USA had mandatory or preferred arrest policies (Miller and Krull, 1997, Dobash and Dobash, 1992). This represented a move away from the victim centred intervention of the 1970s and early 80s to one which concentrated on reducing reoffending by the perpetrator. At about the same

time as the revamped criminal justice response to intimate partner violence emerged there was also an increase in interest by public authorities in the social and economic cost of domestic violence and increased attention by the psychiatric profession in treatment of violent offenders – and the establishment of the first multi-agency program in Duluth, Minnesota.

2.3.1 DULUTH

The Duluth Domestic Abuse Intervention Project (DAIP) began in 1981 as a partnership between the police department, emergency response (911 operations), prosecutors, courts, women's shelters and human service agencies (Pence et al., 1996). The DAIP program relied heavily on educative processes to challenge perpetrator's beliefs about power and dominance over their partners. One of the seminal contributions of the Duluth project was the development of the Power and Control wheel which demonstrates the relationship of wife abuse to patriarchal attitudes (Pence and Shepard, 1999). In the 1980s, perpetrators in Duluth were held accountable for their actions via legal sanctions, and then required to participate in a group learning program to modify their violent behaviour. The model showed significant promise and soon drew national attention. Within ten years, programs patterned on the Duluth model had been established in all fifty US states and while there have been new directions taken in the area of perpetrator

programs, the multi-institution/agency model continues to be the gold standard for interventions (Pence and Shepard, 1999).

Walker's cycle of violence/learned helplessness concept had developed into



Figure 3 Power and Control Wheel

the Battered Women's Syndrome which, as well as providing explanation for the psychological impact of intimate partner violence, was gaining prominence as an explanatory model for retaliatory violence in response to long term abuse (Walker, 1984). In 1996, Congress commissioned a report on the validity of the theory, finding that it 'does not adequately reflect the breadth or nature of the scientific knowledge now available' (US Department of Justice, 1996).

Since the 1980s, as a result of criticism of police practice and the widespread recognition that failure to intervene in domestic violence cases contributed to escalation of the violence (Buzawa and Buzawa, 2003) plus the success of the Duluth model, interventions for intimate partner violence have developed on two dimensions; a criminal justice dimension distinguished by mandatory arrest/ pro-prosecution approaches; and a psychotherapeutic dimension focusing on the rehabilitation of perpetrators.

2.3.2 MANDATORY ARREST

There was early evidence that arrest was effective in reducing violent recidivism (Sherman, 1992) but in the more recent literature the outcomes are less conclusive, with some researchers suggesting that while arrest will deter some groups of offenders, it has no effect on others and may actually increase the violence (Mills, 1998, Garner et al., 1995, Campbell, 2004, Iyengar, 2007). Arrest was found to have a deterrent effect on those who have stronger ties to conventional society – that is perpetrators who are employed, middle class, married and white (Bowman, 1992, Mills, 1998). Nonetheless, mandatory arrest has continued to be a lynchpin of contemporary criminal justice responses to intimate partner violence throughout the US, Australia, United Kingdom, Canada and New Zealand.

Increase in arrest rates following legal reforms to introduce mandatory arrest has been partially related to the prevalence of dual arrests, namely, police

arresting both the perpetrator and their partner, because in a proportion of domestic violence encounters it is difficult to ascertain who the primary aggressor may be (Martin, 1997, Hirschel and Buzawa, 2002, Erez, 2002). Martin (1997) undertook the first detailed study of dual arrests in Connecticut just after implementation of a mandatory arrest policy in 1988 and found the dual arrest rate in intimate family violence cases to be 33 per cent. Compared to incidents resulting in single arrest, dual arrest cases were more likely to involve young, white women who were unmarried and living with the co-perpetrator. Drugs and alcohol were more likely to be involved in dual arrest cases, although there was no information on which party was actually under the influence of drugs and/or alcohol.

When responding to a domestic violence report, the police are required by law to assess the facts regarding the commission, or threat of commission, of an act of violence. Generally, they do not delve into the dynamics of the couple's relationship nor assess the interrelationship between the dimensions of physical aggression and control. The police take action based on a fleeting snapshot of the relationship, a snapshot that may not accurately reflect the dynamics of the ongoing relationship.

More serious and repeat offenders engage in trivialisation and denial of their criminal and anti-social behaviour. A perpetrator's demeanour in front of the police may be calm and rational and may not reflect the full extent of their

dangerousness (Saunders, 1995, Frude, 1994, Buzawa and Buzawa, 2003).

Some researchers suggest that perpetrators have a vested interest in managing the appearance of the incident and can manipulate this by calling police themselves; self-inflicting wounds or otherwise controlling immediate police response so they appear the victim (Guzik, 2009, Miller, 2001, Henning et al., 2005).

For example, a person who has been the victim in an ongoing pattern of violence may find the police arrive only to take their actions out of context and arrest – from a long-term perspective – the “wrong party.” The true abuser in the relationship may not have struck a physical blow at that particular time, which would preclude the police from arresting the “real” batterer. One story I heard at a conference was of a woman who was arrested by the police because when they arrived at the scene the police were faced with a man with lacerations and bruising and a broken kitchen chair. Her story had been that he had kept her imprisoned for two days, most of the time with a knife held at her throat. She had hit him with the chair in her attempt to escape. Another story I was told was that the perpetrator tipped a can of beer over the victim as the police were arriving, and then claimed that he was restraining his partner as 'she was going berserk'.

Another factor that adds to the ambiguities surrounding intimate partner violence cases is that in some cases the parties involved tend to file charges and counter-charges (Braaf and Sneddon, 2007).

From the victim's perspective, while 'discretionary arrest' policies led to the belief that law enforcement officers would not help victims (and so led to under reporting) mandatory arrest/prosecution can also deter reporting because victims may not necessarily want their partner arrested. Victims want the violence to stop – whether they have hope that the relationship can be reformed and continued or want to end the relationship – they want to live without the fear or the reality of continued violence (Hoyle and Sanders, 2000).

2.3.3 MANDATORY PROSECUTION

Mandatory (no drop) prosecution was also introduced as a component of the Tasmanian legislation with the objective of shifting the onus of proceeding with charges away from the victim and onto the criminal justice system.

Policies have been introduced by many jurisdictions in order to more aggressively pursue the prosecution of offenders where intimate partner violence has been criminalised. At the extreme end, victims may be compelled to appear as witnesses and be held in contempt of court if they are recalcitrant (Buzawa and Buzawa, 2003). Those that support no drop policies argue that discretionary prosecution policies allow abusers to manipulate and

intimidate their victims into dropping the charges (Wills, 1996). These policies also offer victims some control over the state response by increasing the likelihood that police and prosecutors will not dismiss cases of intimate partner violence.

However, because no-drop policies make the victim's preferences regarding arrest and prosecution irrelevant, mandatory policies limit the agency and control of individual victims (Coker, 2000). The policies operate in ways that may further marginalise victims already stigmatised by race, class, immigrant status, as well as those whom the police, courts, child protection workers perceive to be “deviant.” Among 90 Texan women studied by McFarlane and her colleagues (2000) 48 per cent had insufficient evidence for charges; of the 52 per cent making charges, 11 per cent dropped charges, 37 per cent of the perpetrators were arrested, and four per cent remained fugitives. With the exception of increased danger at three months for one group of women, levels of violence did not differ whether charges were accepted or the perpetrator arrested at three and six months after the incident. The low probability of prosecution in spousal abuse cases, together with the fact that arrest is only a minor nuisance to the abuser who is usually out of jail within a few hours following the arrest, further explains the lack of deterrent effect arrest has on many perpetrators (Hirschel and Hutchison, 2003, Erez, 2002). Other commentators point out that mandatory arrest and mandatory or no-

drop prosecution has had the unintended consequence of crowding the criminal justice system which goes against the consensus that speedy processing is vital for the deterrence of perpetrators (Mills, 1998, Carlson and Nidey, 1995). Mandatory arrest and prosecution has further been criticised for disempowering and re-victimising victims through forcing them into a criminal justice process that they have no control over (Stanko, 1995). The dilemma is to develop a policy that ensures that domestic violence is a public responsibility, that the police come when they are called and that the legal system does not trivialise cases without increasing state control of victims.

2.3.4 ATTRITION

As well as the problems associated with reporting intimate partner violence to the police, there is a further problem that a very small proportion of intimate partner violence cases result in a conviction. Paradine and Wilkinson (2004) suggested that in the UK the figure is less than 5 per cent. Marianne Hester (2006) identified that attrition was likely to occur for three reasons:

- with regard to victims themselves;
- in relation to police practice; and
- once cases entered the prosecution process.

Hester's research was based in a jurisdiction without a mandatory arrest policy and she found that the behaviour, demeanour and language used by attending police affected the propensity of the victim to continue with charges. She reported that police and criminal justice agencies held the view

that it was the women experiencing domestic violence who decided, usually for relationship or other family reasons, to drop out of their engagement with the criminal justice system. However, staff from a range of agencies and the victimised women interviewed also indicated that criminal justice agencies did not always pursue cases to the extent possible and/or did not provide victims with the support they needed to proceed. In this sense it was not those victimised who were necessarily responsible for attrition, even if they took the decision to drop out (2006). Holder (2001) also cites the length of time for criminal domestic violence matters to be heard in court as a significant issue in the attrition rate. Other reasons that victims might withdraw their complaint include wanting to reconcile with the offender for emotional, family or economic reasons. Also note that the cycle of violence provides some insight into the problem of attrition. After the violent incident there is usually a period where the offender is ashamed and repenting. If the victim is still emotionally connected to the offender, they may well be prepared to give the relationship another chance. It is usually around this time that the criminal justice machine moves into position. If the timing coincides, it is quite likely that the victim will withdraw their complaint. Taylor and Gassner (2010) argue that a conceptual map is needed that details the stages at which reported offences are likely to exit the criminal justice system and outlines

any factors that may affect the decision making process (Taylor and Gassner, 2010).

2.3.5 THE COORDINATED RESPONSE

The premise that underlies coordinated or integrated responses to intimate partner violence is that a response which contains the elements of criminal justice, human service and advocacy should reduce the incidence of intimate partner violence (Shepard et al., 2002, Bouffard and Muftic, 2007). The main objectives of a coordinated response are to improve the effectiveness of the system via increased protection for victims augmented by cross –agency delivery of appropriate services to victims and a robust system of sanctions for perpetrators. The process needs to include a network of criminal justice and other agencies with the aim of disempowering perpetrators of violence and yet empowering victims. The process or system needs to include checks and balances to ensure that the violence does in fact cease and should include sufficient deterrence to send the message to the wider community that intimate partner violence is a serious offence.

The main elements which characterise a coordinated response are mandatory arrest policies, hard line prosecution of offenders, victim advocacy services and treatment services for offenders (Shepard, 1994, Bouffard and Muftic, 2007, Visher et al., 2008, Salazar et al., 2007). While these are common elements, the number and type of components in the system varies between

communities, with some programs also including a public education program and formal mechanisms for inter-agency collaboration (Pence and Shepard, 1999).

Another key component of the Duluth-type interventions for intimate partner violence is the offender intervention program. Many jurisdictions have adopted the Duluth style of group psychological/educational programs and more recently programs based on cognitive-behavioural therapies – but the jury remains out on the effectiveness of offender programs (Eckhardt et al., 2006, Gondolf, 2002, Bouffard and Muftic, 2007, Gondolf, 2001).

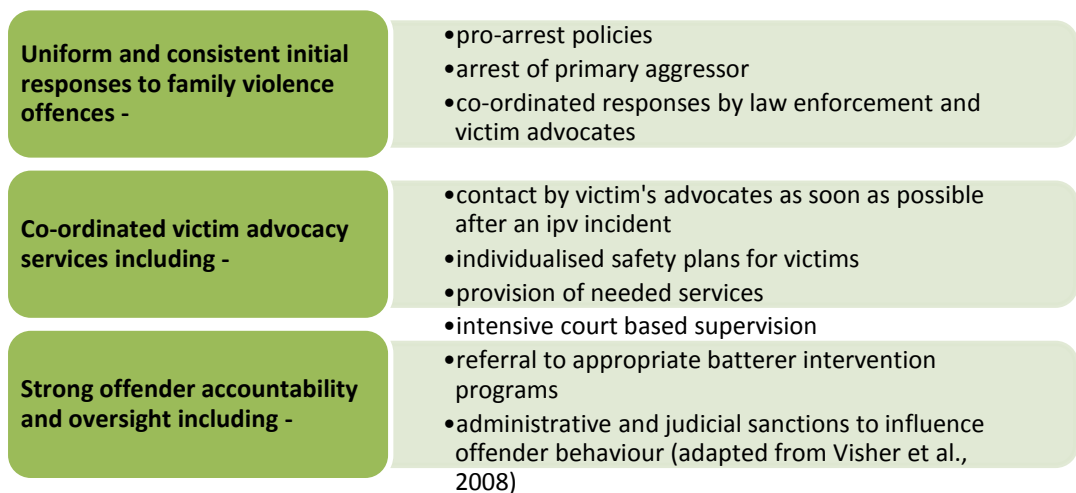


Figure 4 Elements of Best Practice in Intimate Partner Violence Intervention

2.4 RISK ASSESSMENT

Since the mid twentieth century, we have seen a huge culture emerge around the expert use of risk in all its forms; be it risk analysis, assessment, risk

communication or management. This proliferation can be attributed to the developments in the field of statistics and computer technology, enabling manipulation of large sets of data in ways that had not been previously possible and also the establishment of large regulatory agencies and institutions to deal with entities regarded as high risk such as nuclear energy (Slovic, 1987). In the last 25 years we have witnessed breakdown of the communist states, rapid spread of communications technology, growing secularism, and changes in families and workplaces through feminism and economic/social policies, an increase in terrorist activity and natural disasters as well as evidence of global warming and environmental damage due to industrial practices. As a result of increasing complexity in modern life, the risks that people might be exposed to have increased exponentially and at the same time they might be less identifiable and more serious in their effects, creating more anxiety and problems in their management (Beck et al., 1994). Every day we are faced with multiple messages in the media about the multiple risks we must deal with, be they lifestyle risks, medical risks, interpersonal risks, environmental risks, economic risks or criminal risks meaning that risk assessment has moved from a scientific practice, through managerial policy to become a way of life for ordinary citizens.

During the 1990s we observed an increase in the influence of the 'risk factor' paradigm. In the case of intimate partner violence, the need to identify risk

factors or markers was borne out of the need to identify indicators of risk of re-offending among those arrested for assaulting their partners. Policy makers considered the ability to identify those perpetrators 'at-risk' or 'most likely' to re-assault was considered to be extremely useful in the design of targeted programs. Many researchers worked on identifying the key risk factors for offending (Kropp and Hart, 2000, Marshall, 1996, Campbell, 1995, Jones and Gondolf, 2001, Hotaling and Sugarman, 1990, Wilson and Daly, 1993, Holzworth-Munroe and Stuart, 1994, Johnson, 1995, Limandri and Sheridan, 1995, Saunders, 1995, Borum, 1996, Kaufman Kantor and Jasinski, 1997). The paradigm fostered links between theory and applied research, and between academics, policy makers and practitioners.

Technical approaches to risk involve the anticipation of potential physical harm to people, average these out over time and space and use relative frequencies (observed or modelled) as a means to specify probabilities of the occurrence of adverse events. Risk 'technologies' such as mitigation planning, standards, policies and protocols and so on, focus on the improvement of reliability and safety of systems (whether technological or administrative) as a means to reduce and share risk.

One version of techno-science, the cognitive-scientific approach, has dominated the literature on risk, being largely devoted to the development of psychological models of human behaviour and psychometric tools to measure

people's responses. This is a very linear view of risk made up of steps involving perceptions of risk, calculating the level of risk and taking appropriate action to avoid it (Lupton, 1999, Webster, 2004, Cohen, 1997, Burgess, 2006).

Techno-scientific approaches to risk of reoffending in violent situations became increasingly popular with police services among English-speaking nations in the latter part of the 20th century (Metropolitan Police (UK), 2001, New Zealand Police Service, 2004, Pacific Institute for the Study of Conflict and Aggression, 2001, The Scottish Office, 1997). Domestic violence risk assessment tools seek to gauge the likelihood of reoffending by looking at specific risk factors and calculating a score that approximates the degree of risk. A range of these generally complex tools are used by the justice and health systems in many jurisdictions. The tools usually include an extended assessment process to establish therapeutic plans for offenders and strategic plans for victims; their rationale being to provide structure and information for decisions that need to be made (Arizona Coalition Against Domestic Violence, 2002, New Zealand Police Service, 2004, Welsh and Farrington, 2005, Miller and Krull, 1997, Richards, 2001, Richards, 2003, Association of Chief Police Officers, 2005, Durham Police Department, no date).

A risk assessment process was incorporated into the *Safe at Home* suite of interventions for intimate partner violence in Tasmania. Tasmania Police

developed a proprietary Risk Assessment Screening Tool (RAST) from a review of the academic and grey literature. This research included analysing police screening tools in use in the UK, USA and New Zealand to aid officer decision making regarding the level of risk of further and escalating violence relating to any individual victim. The domestic violence literature agrees that risk assessments should be informed by victims' perceptions of their own risk, and that this presents a reasonably accurate predictor of re-assault (Campbell et al., 2009, Heckert and Gondolf, 2004) both in isolation and as a means of improving the predictive value of other risk assessment instruments (Heckert & Gondolf, 2004). A recently published meta-analysis of risk assessment argued that victim assessment has similar predictive value to the other, more formal approaches (Hanson et al., 2007).

The risk assessment tool used by Tasmania Police is a single-page 34 item checklist of documented risk factors to which a numerical score is allocated in two sections. Section A risk factors are those which the literature has identified as being strongly correlated with escalation of violence and these items are allocated three points for each item while those in Section B are allocated two points. The thirty four items are as follows:

1. alcohol problem (Limandri and Sheridan, 1995, Margolin et al., 1998, Nestor, 2002, Norko and Baranoski, 2005, Robbins et al., 2003, Rodriguez et al., 2001, Campbell et al., 2003, Gondolf, 2002);
2. bizarre, paranoid or delusional behaviour (Richards, 2001);

3. child assaulted in the past (Armstrong, 1998, Saunders, 1995, Walby and Myhill, 2000);
4. child assaulted in this incident (Armstrong, 1998, Saunders, 1995, Walby and Myhill, 2000);
5. cultural or disability issues (Carcach and James, 1998, Dal Grande et al., 2003, Easteal, 1993, James and Hallinan, 1995);
6. current or history of depression (Hucker, 2004, Prins, 1999, Nestor, 2002, Robbins et al., 2003, Bryon, 2004, Dutton and Haring, 1997);
7. diagnosed mental illness/disorder (Hucker, 2004, Prins, 1999, Nestor, 2002, Robbins et al., 2003, Bryon, 2004, Dutton and Haring, 1997);
8. drug use problem (Limandri and Sheridan, 1995, Margolin et al., 1998, Nestor, 2002, Norko and Baranoski, 2005, Robbins et al., 2003, Rodriguez et al., 2001, Campbell et al., 2003, Gondolf, 2002);
9. homicidal fantasy or threats (Hucker, 2004, Prins, 1999, Nestor, 2002, Robbins et al., 2003, Bryon, 2004, Dutton and Haring, 1997);
10. injury or threat to pets (Ascione, 1998, Flynn, 2000);
11. level of violence escalated (Walby and Myhill, 2000, Metropolitan Police (UK), 2001);
12. not taking prescribed medication (Hucker, 2004, Prins, 1999, Nestor, 2002, Robbins et al., 2003, Bryon, 2004, Dutton and Haring, 1997);
13. offender breached restraint or P/FVO (Carlson et al., 1999, Young et al., 2000);
14. offender jealous, obsessive, intimidating or bitter (Frude, 1994, Saunders, 1995, Dal Grande et al., 2001, Krakowski and Czobor, 2004, Kaufman Kantor and Jasinski, 1997, Margolin et al., 1998, Walby and Myhill, 2000, Bledsoe et al., 2004, Bryon, 2004, Laing, 2004);
15. offender killed family pet (Ascione, 1998, Flynn, 2000);
16. offender or relationship experiencing financial difficulty (Saunders, 1995, Margolin et al., 1998);
17. offender stalked victim/others (Palarea et al., 1999, Websdale, n.d.);
18. offender unemployed (Campbell et al., 2003, Tyagi, 2003);
19. possession or access to firearms (Richards et al., 2004);
20. pregnancy or new birth (Taft, 2002, Richards, 2003, Martin et al., 2004);
21. previous murder/manslaughter arrest (Frude, 1994, Holzworth-Munroe and Stuart, 1994, Limandri and Sheridan, 1995, Tweed and Dutton, 1998, Gondolf, 2001);

22. separation after cohabitation (Mouzos and Shackelford, 2004, Palarea et al., 1999, Wilson and Daly, 1993, Walby and Myhill, 2000, Campbell et al., 2003, Carlson et al., 1999);
23. sexual assault or rape arrest (Australian Bureau of Statistics, 1998, Lievore, 2005);
24. strangling or suffocation (Richards, 2003, Campbell et al., 2003);
25. suicidal fantasy or threats (Hucker, 2004, Prins, 1999, Nestor, 2002, Robbins et al., 2003, Bryon, 2004, Dutton and Haring, 1997);
26. suicide attempt (Hucker, 2004, Prins, 1999, Nestor, 2002, Robbins et al., 2003, Bryon, 2004, Dutton and Haring, 1997);
27. threats to kill in the past (McGrath, 2003, Laing, 2002);
28. threats to kill victim or child(ren)(McGrath, 2003, Laing, 2002);
29. victim afraid (Gondolf, 2002, Millbank, 2000, Hirschel and Hutchison, 2003, Coumarelos and Allen, 1998);
30. victim assaulted in past (Carlson et al., 1999, Taft et al., 2001);
31. victim assaulted in this incident (Gondolf, 2002, Millbank, 2000, Hirschel and Hutchison, 2003, Coumarelos and Allen, 1998);
32. victim or child/ren physically injured (McGrath, 2003, Laing, 2002);
33. victim terrified (Gondolf, 2002, Millbank, 2000, Hirschel and Hutchison, 2003, Coumarelos and Allen, 1998); and
34. violence against any other person in past (Frude, 1994, Holzworth-Munroe and Stuart, 1994, Limandri and Sheridan, 1995, Tweed and Dutton, 1998, Gondolf, 2001) (Winter, 2006).

At the time the research was undertaken police officers calculated the composite risks to the victim as low (13 or less), medium (14-28) or high (28+)

risk¹, with a variety of potential outcomes ranging from arrest through to detention and refusal of bail as detailed in Table 4 below.

Table 4 Outcomes for Risk Assessment scores

LOW	MEDIUM	HIGH
RAST completed Complete safety audit Provide verbal advice regarding future safety Submit DVIR	RAST completed Complete safety audit Provide verbal advice regarding future safety Submit DVIR	RAST completed Arrest offender Complete safety audit Complete written personalised safety plan for victim Detain offender for court Oppose bail Submit DVIR (Arnold, 2005)

In all instances, safety audits were conducted of the victim's residence and safety plans are devised (recently the procedures have changed so that safety plans are designed for victims at high risk only). Police may issue Police Family Violence Orders (PFVO) of up to 12 months for low and medium risk categories. In cases where the victim's risk is rated as 'High' offenders are not eligible for police bail and need to appear before a magistrate who will issue a Family Violence Order (FVO) through the court.

Whilst methodical risk assessment tools such as the RAST are providing police and courts with the opportunity to better manage decision making at family violence incidents (Mason and Julian, 2009), there has been growing critique

¹ With a maximum possible score of 85

of the practice (Gillingham, 2006, Laing, 2004, Lewis, 2005, Limandri and Sheridan, 1995, McSherry, 2004).

In principle, any violent incident can be identified as resulting from a variety of situational factors, individual psychological factors and couple relationship factors, with multiple causal links emanating from each of these areas (Winter and Julian, 2005). Laing (2004) suggests that simple checklists should not be used as the sole basis for safety planning, but in conjunction with other information and should not be a substitute for listening to women and learning about the complexities of their domestic lives.

2.5 SUMMARY

This chapter has provided a brief introduction to the main themes in the literature around intimate partner violence, including several key concepts to which we will return in the discussion of the results of the research. The chapter provided information on the definitions of intimate partner violence, its prevalence and a brief appraisal of the history of state intervention including the precedents to the current style of intervention and the practice of using risk assessment by the police.

Chapter Three will outline the research paradigms and the methodology for the project.

3 METHODOLOGY

This chapter documents the progression of the research project from the initial stages of research design through to final writing of the thesis. The first section provides an overview of the research rationale, a discussion of the methodological framework and reflection on the methodological elements. The second section provides a description of the research design and procedures.

3.1 RESEARCH PARADIGMS

As indicated in the preceding chapter, the literature which informs this study is vast and yet there remain substantial gaps in our understanding of intimate partner violence. One of the challenges in working in this area of intimate partner violence has been in assimilating the findings of previous work and yet remaining frustrated that there is still so much we do not understand.

Immersion in the vast literature around intimate partner violence and the criminal justice response to it convinced me that the complexity of the processes to be investigated could not be captured via any single method with depth as well as breadth (Elliott, 2005:97). The socio-legal environment is an area in which there are so many dimensions, some interrelated, others contradictory, and stable or unstable and I wanted to perform an analysis that was substantially, not just descriptively, 'thick' (Geertz, 1973). As Adele Clark says 'taking explicitly into account the full array of elements in the situation and

explicate their inter-relations' (2005:xxiii) to establish clear levels of meaning.

This necessarily meant that my research would not consist of a set of tidy, quantifiable procedures narrowly focussed on what was easily measurable (Lather, 1986).

I was drawn to adopting an approach which incorporated triangulation and reflexivity, using many techniques from the field of ethnography. Ethnographic methods enable the researcher to penetrate arenas not normally available to formal methods (Punch, 1989:178).

3.1.1 ETHNOGRAPHY

Ethnography is the study of people in naturally occurring settings or 'fields' using techniques which capture social meanings and ordinary activities (Becker et al., 2004, Schneider, 2006). Ethnography involves the researcher participating directly in the setting in order to collect data in a systematic manner but without meaning being imposed on them externally. Ethnographic methods have often been criticised over the years for their lack of precision, susceptibility to bias and of limited value because research results are gleaned from small samples and therefore are not able to be generalised with the same precision as quantitative methods. However, many aspects of contemporary life resist generalisation and thus we have seen resurgence in the 'popularity' of qualitative approaches, as well as research that crosses disciplinary boundaries in search of understanding

of issues that resist investigation via positivist methods. Ethnographic methods were considered most suitable for achieving my objectives, which were to:

- build a comprehensive picture of processes and dynamics within layers/contexts and therefore gain understanding of issues;
- answer broadly defined research questions rather than prove a hypothesis;
- allow for the fact that some research questions arose from a theoretical understanding of the problem while other practical questions would arise out of the data;
- observe backstage behaviour (Goffman, 1959, Meyrowitz, 1985);
- compare and contrast multiple data sources, identify patterns, place them in context, and relate all back to theory and practical questions;
- collect data that was rich and thick; and
- to bring together data from all the sources to develop a holistic picture, exploring general themes and patterns.

A grounded theory framework was adopted from the outset because I felt that the methodology would allow for the exploration of complex social phenomena such as the policing and prosecution of intimate partner violence.

Grounded theory is a research method which uses a rigorous set of procedures to produce a substantive theory of social phenomena (Glaser and Strauss, 1967, Corbin and Strauss, 1990). A key tenet of grounded theory is that the world is not static; things are in a constant state of change in response to a variety of conditions in the environment. A second principle of grounded theory is that actors always have the potential to change their behaviour in response to their conditions, i.e. their responses are not predetermined. Grounded theory seeks to uncover relevant conditions, determine how actors respond to their

conditions and the consequences of their actions. Data can come from various sources—for example interviews, observations, government documents, newspapers, letters and books – anything that will shed light on the questions being studied.

A research process founded on grounded theory incorporates the ability to change along with the situations being studied (Corbin and Strauss, 1990). Grounded theory begins with a broad investigation of what is going on in the area of interest, the data collection and analysis are undertaken concurrently, with specific research questions emerging as the analysis proceeded (Glaser and Strauss, 1967, Yates, 2004, Corbin and Strauss, 1990). The analysis of data commences with the first batch of interviews or observations. Subsequent interviews and observations are informed by provisional analyses, alternative hypotheses and additional research questions. Initial interrogation of the data may illustrate potential new categories, linkages and relationships. The process of a simultaneous undertaking of data collection and analysis enables the research process to capture all potentially relevant aspects of the topic as soon as they are identified. A grounded process of theory building is powerful because the theory is verified as new data is linked into the research, tested and integrated into the final analysis (Glaser and Strauss, 1967).

In a grounded theory process, emerging concepts are the basic units of analysis. Incidents, events and conversations are treated as potential indicators and given

conceptual labels. These may or may not be grouped to form categories and a process of constant comparison is adopted. Additional data may be ‘theoretically sampled’, namely sought out to clarify aspects of the emerging theory. Theoretical sampling is not only important for checking hunches about relationships among concepts developed during analysis but also to confirm representativeness and consistency of concepts (Corbin and Strauss, 1990). Any hypotheses about relationships among categories are constantly revised. Grounded theory also needs to take into account the broader social conditions which affect the area under scrutiny and show linkages between conditions, actions and consequences.

Grounded theory can be generalised to the extent that it specifies conditions that are linked through action/interaction with definite consequences. Any conditions and variations will be discovered through increasingly rigorous, systematic and widespread theoretical sampling.

Other elements which commonly appear in contemporary ethnographic research and also influence this thesis are the postmodern concepts of discourse, constructionism, and feminist theory. These elements are described briefly in the following section.

3.1.2 DISCOURSE

The term discourse analysis means many things to many people. For example ‘discourse’ and ‘discourse analysis’ appears in the works of Antonio Gramsci

(1971), Michel Foucault (2000, , 1997, , 1977), Jurgen Habermas (1984) and Anthony Giddens (1984, , 1990). Discourse can be a difficult concept to grasp because there are so many conflicting and overlapping definitions, with origins in various disciplines. For a linguist 'discourse' means spoken dialogue as distinct from 'text'; and as such analysis of discourses can involve studying the properties of the interactions of speakers and those that they are addressing, for example turn-taking, and the ways that conversations are opened and closed. A linguist may also analyse the discourse in a text, which means looking at the structure of the text and the relationship this sets up between the writer and the reader. Discourse is also used to describe the different types of language used in different types of social situations such as newspaper discourses, free market discourses, the creationist discourse and so on (Fairclough, 1992).

Foucault and other social theorists (Stokoe, 2004, Potter, 1996, Van Dijk, 1998, Fairclough, 1992) use the term discourse to refer to different ways of structuring knowledge and social action. Fairclough (1992) gives the example of the various discourses that can be found in health care: while the 'medical science' discourse is the dominant discourse health practice, there are also alternative discourses such as the 'homeopathic' discourse and the herbal and Chinese medicine discourses. Discourses do not just reflect or represent social entities and relations; they are also involved in their construction. It is this constructionist aspect of discourse that is of interest in this study. For Fairclough, discourse is

three-dimensional. Any discursive 'event' is seen as simultaneously a piece of text, an instance of discursive practice and an instance of social practice (Fairclough, 1992). Text in this definition can be dialogue or written text or visual images; discursive practice is the process by which the text is produced and interpreted; and the social practice dimension relates to the institutional and organisational circumstances of the discursive event and how that shapes the nature of discursive practice. Fairclough notes that relationships between discursive, social and cultural change are typically not transparent for the people involved (1992). This research will identify discourses in the language used by four groups; police, the legal fraternity, victim advocates as well as public discourses around intimate partner violence as evidence of the social practices prevalent within these groups.

3.1.2.1 NON-CRITICAL DISCOURSE ANALYSIS

Discourse analysis falls into two broad groups, non-critical and critical. The non-critical category is made up of general descriptive frameworks such as those which look at the transactions which occur in social situations – such as the ways in which a teacher elicits responses from students in a classroom. Conversation analysis (CA) is a form of non-critical analysis where the analysis rests on various aspects of conversation such as openings and closings; how topics are established, sequenced and so on. As well as conversation analysis, the other main strand of non-critical discourse analysis is membership categorisation

analysis (MCA), which evolved out of the work of Harvey Sacks in the 1960s (Sacks et al., 1974). The focus of MCA is the use of membership categories and what may be assumed about them (category predicates) in producing and recognising 'sensible' occasions (or scenes), actions and talk (Hester and Eglin, 1992, Berard, 2005). Individuals are members of multiple categories e.g. white Protestant woman. MCA is organized around the notion of the 'membership categorisation device' (MCD); the MCD is where categories are audibly linked together by native speakers of a culture (e.g. the categories of baby and mother are linked to the MCD of the family). This is the micro politics of everyday life – the way people do descriptions, make claims, and organise social relations.

We cut nature up, organise it into concepts, and ascribe significances as we do, largely because we are parties to an agreement to organise it in this way – an agreement that holds throughout our speech community and is codified in the patterns of our language (Whorf (1897-1941) in Stubbs, 1997, p361).

Membership categorisation devices are 'inference-rich'; they call up detailed assumptions about categories of events that go with categories of people.

The categorisation process makes available a frame of reference or relevant category environment in which subsequent descriptions of a person's activities can be understood. Most qualitative texts note that MCA is useful for looking at the social organisation of social problems; especially for making visible specific troubles and their portrayal as a *social problem*. MCA exposes the process of categorising and labelling social problems in a manner conducive to official

recognition and action by analysis of the systematic use and deployment of various conversational and discourse procedures by a number of participants in the process.

While MCA is usually classified as a non-critical form of discourse analysis, I would argue that MCA straddles the critical and non-critical streams. In practice we find that a number of verbal (vocabulary) strategies are deployed to discuss a problem's seriousness. This process describes the practical and ongoing construction of facts about social life. Membership categories can be strategically played up or down to assist in maintaining a preferred version of events (after Potter, 1998). This 'categorisation work' can be subtle, as in courtroom evidence which works on delicate manipulation of normative conceptions to allocate blame to victims.

I am less interested in the local and sequential production of turns at talk usually found in discussing MCA and CA. I did not analyse entire transcripts/interviews word by word, but rather identified contributions which constituted shifts in policy discourse. Data was selected for its relevance to the discourse on a particular issue and analysed in terms of what it contributed to the relevant dialogue and how. Multiple examples illustrate similar methods and logics, despite differences in wording or context. The data are primarily materials for inductive analysis, to identify, illustrate and explicate the practical logic of language and interaction in different domains of practice and discourse.

3.1.2.2 CRITICAL DISCOURSE ANALYSIS

Because discourse can be a mode of domination (based on alliances, the subordination of groups and the generation of consent) played out by producing, reproducing, contesting and transforming hegemony it is important to develop a critical approach to the analysis of discourses. A critical approach to discourse analysis will show how a discourse is shaped by power, ideology, and expose the role that the discourse has in shaping identities, social relationships, and knowledge and belief systems.

Critical discourse analysis as introduced by Foucault is not a text-based analysis such as described in the previous section. Foucault is concerned with the way that discourses shape domains of knowledge (1972); the conditions under which this transformation occurs (1977, , 1990); and the rules and strategies that are mobilised to achieve the transformation (1972). For Foucault, discourse is a social practice.

[a discourse is] constituted by all that was said in all the statements that named it, divided it up, described it, explained it... (1972).

The constitution of a discourse occurs within a space where specific relationships are set up between social institutions, economic and social processes, patterns of behaviour, norms, techniques, types of classifications and modes of characterisation (Foucault, 1997). Foucault's description of the construction of psychopathology resonates with the construction of the social problem of family violence ...

The relation between the authority of medical decision and judicial decision... the relation between the filter formed by judicial interrogation, police information, and the filter formed by the medical questionnaire, clinical examinations, the search for antecedents, and biographical accounts. The relation between the family, sexual and penal norms of the behaviour of individuals, and the table of psychological symptoms and diseases of which they are the signs (1972)

Another key idea employed by Foucault pertinent to this study is that of ‘enunciative modalities’ meaning that any given utterance positions the person making the statement within the discourse, not separate from it (Foucault, 1972). Enunciative modalities include activities like description, formulation of hypotheses, production of rules and regulations and so on. They are historically specific and affected by social change.

The term ‘concept’ as defined by Foucault in *The Archaeology of Knowledge* (1972), includes a host of categories which are used by a discipline in discussing the field of interest. The configuration of concepts shifts around depending on the current state of the relationship between those engaged in constructing the discourse. Concepts within a given discourse are arranged as ‘fields of statements’ each with their own sets of relationships which form the ‘rhetorical schemata’ linking sets of descriptions, definitions, deductions (Foucault, 1972).

Relationships between discourses are ‘interdiscursive’ and can be categorised as belonging to fields of ‘presence’, ‘concomitance’ or ‘memory’. A field of presence consists of statements formulated elsewhere, considered to be

truthful, involving exact description, well founded reasoning or can be statements that are criticised and rejected, explicitly or implicitly. A field of concomitance shows the link between discourses and a field of memory includes statements that are no longer accepted or discussed but illustrate the historical discontinuity of discourses.

In *Discipline and Punish*, written a few years later, Foucault argues that discourse is secondary to power (Foucault, 1977). For Foucault, power is a necessary tool for managing populations in modern societies. Power is implicit in all aspects of everyday social practices and its success is attributable to its ability to substantially mask itself and its mechanisms (Foucault, 1977). It is not imposed from above in a heavy-handed manner, but rather exists in series of 'micro-techniques' which combine the forces of knowledge and power such as the uses of examinations in an educational setting to stratify (gate-keep) and exert control over sectors of the population. Discourse is central to this conception of power and Foucault implies that a sound analysis of the discourses in a given institution or organisation enables some understanding to be gained about the relations of power. This study attempts to examine these abstract concepts using the real world example of implementing legislation using a whole-of-government implementation model in relation to intimate partner violence.

Drawing on recent work described above and in the sociolinguistic area (Stubbs, 1997), I will look at the way that language is used in the criminal justice system

to talk about intimate partner violence. In this respect, two concepts are essential; categorisation and selection. Every time we talk about anything, the words we use select some features of the world and ignore or play down others.

Narratives are the product of the interaction between cultural discourses which frame and give structure to the narrative as well as the material circumstances and experiences of each individual (Elliott, 2005). This means that each person has an internalised narrative produced from a template of surrounding narratives as well as the potential for a unique and original narrative. My research attempts to identify the templates and storylines used by the different groups of subjects (police, magistrates, advocates) for narrating their experience of working with victims of intimate partner violence in order to identify the discourses used in the narratives of individual research participants. Hajer's work will provide the framework for the analysis of the data. Each discourse identified will be tested for its level of structuration and institutionalisation within and between the members of the discourse community around intimate partner violence in Tasmania and analysed for potential impact at both individual and organisational levels.

3.1.3 FEMINIST PERSPECTIVES

Research can be labelled feminist when feminist viewpoints and issues act as the guiding framework to the research process. Feminist research differs from traditional research methodologies for three reasons. It actively seeks to remove

the power imbalance between researcher and subject; it is often politically motivated with the objective of exposing social inequalities; and it is concerned with the standpoints and experiences of women.

Recognition of the participants as the experts and authorities on their own experiences is central to a feminist approach to research. Research participants are part of the social world; conscious and aware of the patterns of social relationships that can impact upon their lives. In most feminist research, the subjects of the research as well as the researcher are female (Naffine, 1996, Skinner et al., 2005). In this sense, this project is not purely feminist. The people observed and interviewed in the course of the project were both male and female. However, all victims encountered during fieldwork with the police were female.

The research is informed by feminist ethnography in that language is seen as an important site of power creation and maintenance. Like Foucault, feminist theory maintains that power is not always the function of brute force or economic or political advantage but can take the form of control of knowledge. It can involve the ability to impose one's understanding of the world on the world of others (Naffine, 1996).

The current project followed the traditions of feminist ethnography in its rejection of the premise of value neutrality and reflexive examination of the role

of the researcher in the process of undertaking the research. Feminist ethnography acknowledges that a researcher brings historical experience, values and ideology to their research, which can be a source of bias or other challenge to the representation of the social processes under observation.

Our own frameworks of understanding need to be critically examined as we look for the tensions and contradictions they might entail (Lather, 1988)

Guided by Lather's observation that there is no ready-made recipe which will guarantee valid social knowledge and that 'we must operate simultaneously at epistemological, theoretical and empirical levels with self-awareness' (Sharp et al., 1975 quoted in Lather, 1986), I was conscious that I needed to keep a close eye on the validity of the data and the subsequent analysis on which my theorisation is based. Lather emphasised that the production of illuminating and resonant theory needs to be grounded in trustworthy data and therefore the researcher needs to use self-corrective techniques that will check the credibility of data and minimise the distorting effect of personal bias on the logic of evidence (Lather, 1986, Lather, 1993).

3.1.4 CONSTRUCTIONIST PARADIGM

Constructionism has been discussed briefly in the previous chapter in relation to the mechanisms of defining social problems and their solutions. However, constructionism is also a feature of the methodological framework in the research. The constructionist paradigm in sociology is linked to the theoretical

stream of symbolic interactionism (Berns and Schweinberger, 2007, Schutz, 1954, Strauss, 1978) as well as ethnography (Geertz, 1973). The constructionist perspective is that our experience of the world is an interpretive one with interpretation being an active process involving ordering and categorisation. While the world consists of events and persons that exist independently of our perception of them, language is the main way of making sense of the world. Language provides us with the categories, or typologies we might use to classify events and persons and to order them. Language also enables us to share experience, to make our experience available to others. In this sense *reality* is a product of social interaction (Gergen and Davis, 1985).

With a constructionist perspective shared typifications of reality also become institutionalised. Shared typifications of people and events lead to *habitualisation* (Berns and Schweinberger, 2007). Habitualisation makes the behaviour of others predictable, facilitating joint activity (Mead, 1934). Once a typification or practice becomes habitual, others come to expect it, and mechanisms of social control are developed to perpetuate it. Roles can become institutionalised, generating reciprocal typifications of conduct by categories of actors in specific contexts.

Knowledge can also become institutionalised. This institutionalisation can occur at a societal level, or within subgroups. A *sub universe of meaning* is a socially segregated store of knowledge adopted by a specific group (Guttman, 1959).

There may be conflict between groups and thus society and social policy is pliable and vulnerable to power struggles.

In this study text and talk are both a resource and a topic. They are used for finding patterns in the body of words, ideas and images (Weatherell et al., 2001) as well as examining the function of language – the discourses and the rhetoric - looking for recurring elements in the body of talk. However the study is not interested in the discursive process (back and forth conversation such as in conversation analysis) but rather the rhetorical repertoires used by the subjects of the study. The methodology is iterative, not just in terms of data collection, analysis and interpretation but also in terms of using the theoretical lenses of construction, critical discourse analysis and a feminist perspective.

3.2 RESEARCH DESIGN

The initial stage of research involved gaining an understanding of domestic violence as a social problem and the history of socio-legal responses to it. The Tasmanian legislation and strategy was evaluated against the contemporary sociological and criminological literature around risk, policing and intimate partner violence. The fieldwork component was formulated to examine the implementation of risk assessment alongside the new family violence legislation and explore whether victim safety had actually improved. The preliminary research plan had included interviewing a number of people who experienced an escalation in physical or emotional abuse with the intent of exploring catalysts

for the escalation of risk within an intimate relationship. As the fieldwork unfolded, it became clear that the recruitment method for victims, as recommended by the University Human Research Ethics Committee, would not yield any research subjects. Around the same time however, the material arising from the interviews with police officers and magistrates began to yield an interesting array of discourses around the implementation of the program and thus the research moved away from a grounded mixed method approach using a combination of quantitative and qualitative methods to concentrate on qualitative only. Risk remained a significant element of the research. However it evolved into one of a group of discourses used by members of the criminal justice system. Figure 5 illustrates the methodological process used in the revised research plan. The initial activity remained focused on understanding the landscape of intimate partner violence in Tasmania through reading the legislation, policy documents, police documentation and material available in the mass media and informed by the analysis of the dataset of risk assessment scores from 2005. The field observations of both the training of the VSRT and real time observation of teams were undertaken to obtain further contextual data. The numbers of interviews with magistrates, police officers were expanded to include more research participants such as police prosecutors and solicitors from both Legal Aid and in private practice. As well as family violence counsellors who were part of the coordinated response, the opinions of workers

in non-government organisations were sought to provide some insight into victim experiences.

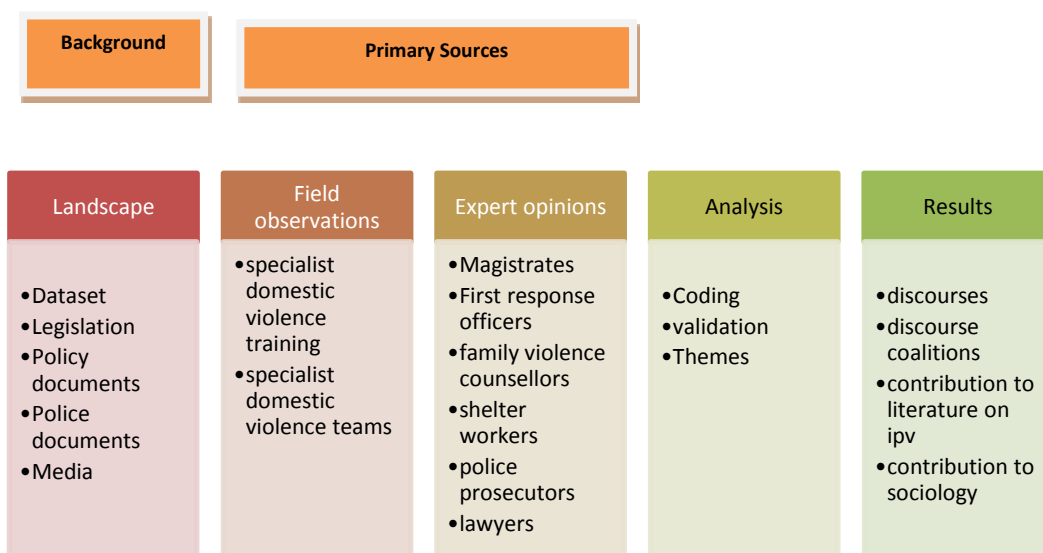


Figure 5 Methodological process

The analysis phase of the research included transcription, coding, data validation and the identification of key themes. Results were presented in relation to the discourses that were revealed and the discourse coalitions that were identified as well as discussion of the contributions of the research to the field of intimate partner violence and to the discipline of sociology.

3.2.1 SOURCES

In this section I will provide descriptions of the sources that were used in this research. The first part of the section will introduce the secondary sources that were consulted.

3.2.1.1 LANDSCAPE

The research began with an exploration of police and how they implemented the new legislation and strategy. The increased focus on risk (and safety) led to an analysis of the risk assessment screening tool (RAST). In May 2006 Tasmania Police provided a de-identified dataset of 906 randomly selected Risk Assessment Screening Tools (RAST) that had been processed by officers during 2005.

A descriptive analysis of the tool was undertaken in the first year of this project to gain a snapshot of the main characteristics of violent incidents in Tasmania. The RAST is a victim screening tool completed by officers at the scene of the incident at the same time as obtaining the victim's statement and collection of evidence. The data contained 67 variables and these are listed in Table 6. In some cases there was insufficient data for analysis and these were removed.

After cleaning, 906 cases remained for analysis. New variables were created including aggregate regional categories of metropolitan, regional centre and rural from the postcode data and victim gender categories within these regional areas.

After consultation with police management it was decided that the 'relationship' field was not able to be used for analysis as there was some confusion as to whether the 'relationship' referred to the person being interviewed (often a third party) or the victim's relationship to the offender. Subsequent to this

feedback to Tasmania Police, the RAST forms were redesigned to remove this ambiguity.

Table 5 Data provided by Tasmania Police

Item On Database	Used for analysis
Police Case No.	No
Date Of Incident	Yes, seasonal effect
DVIR /FVO No	Yes, deduplicating
Police Officer On RAST (Code)	No
1st Police Officer	No
2nd Police Officer	No
Victim Code	Yes, check for multiple RASTs
Victim Gender	Yes
Victim Has Multiple Incidents	Yes
Offender Code	Yes, check for multiple RASTs
Offender Gender	Yes
Offender Has Multiple Incidents	Yes
Relationship To Victim:	Yes, but discarded because of inconsistencies
Postcode	Yes
18 x A level items	Yes
Total Of A Level Score	Yes
16 x B level items	Yes
Total B:	Yes
Total A + B:	Yes
Source Reliability	Yes
Info Accuracy	Yes
Victim Signed	No
Comment Field	No
Q&A Memoir	No
Victim Name Missing	No
Offender Name Missing	No
Address Missing	No
Date Of Incident Missing	No
DVIR/FVO Missing	No
Relationship Missing	No
Problem With Calculation	No
Correct Score + Or - Written Score	No
Comments Re Calculation Error	No
Duplicate RAST For Same FVO#	No
Reason For Duplicate RAST For Same FVO#	No

The data was imported into SPSS v14 and descriptive statistics were undertaken.

I have presented results at a number of conferences since 2005 (Winter and Campbell, 2007, Winter, 2007a, Winter, 2007b, Winter, 2005).

3.2.1.2 LEGISLATION AND POLICY DOCUMENTS

In this project, I was interested in seeing how closely the spirit of the legislation and associated policy was understood and followed by police management, trainers and operational officers. As well as the legislation itself, and the policy documents that outlined the *Safe at Home* policy, a number of other documents were analysed.

3.2.1.2.1 POLICE DOCUMENTS

52 randomly selected reports from the Family Violence Management System (FVMS) were provided as an Excel dataset. The data constituted 13 reports from each Police District. This information was imported into NVivo 7 and coded.

3.2.2 PRIMARY SOURCES

In this section I will present the rationale for using field observations and semi-structured interviews as part of my methodological approach.

3.2.2.1 FIELD OBSERVATIONS

Participant observation is often simply referred to as 'fieldwork'. Participant observation is an ethnographic tool used to understand specific social worlds and the individuals who operate within them, colloquially 'soaking and poking' (Fenno (1990) cited in Glaser, 1996). One of its main strengths is that field

observation, is not merely a data-gathering activity but also a theory-generating activity. Because of the comprehensiveness of perspective that field observation enables, the researcher is able to recognise nuances that might escape researchers using other methods (Babbie, 1992).

This project involved my use of the observer-as-participant stance, characterised as where researchers identify themselves (as a researcher) and interact with the participants but make no pretence of being a genuine participant (Babbie, 1992) also sometimes called 'street level observation' (Brodin, 2003).

The fieldwork component of this project involved observations of the police at three sites. Observation was made of the training for the specialist Victim Safety Response role created by the *Family Violence Act 2004* and of two Victim Safety Response teams, in two of the four police districts in Tasmania. The police were chosen as the site for the observation because of their pivotal role in delivering the *Safe at Home* policy. Police as *street level bureaucrats* (Lipsky, 1980) act as a kind of filtering process through which the rest of the policy flows. As police have responsibility for the first response at the scene of a reported family violence incident, their interpretative role is crucial in the understanding of how the policy is implemented. Police attitudes to intimate partner violence, the legislation and the new powers it bestowed on them, and the knowledge and skills that they bring to their decision-making in investigating a family violence

incident are fundamental to the success of the legislation and its associated policy framework.

Participant observation is particularly suited to studying organisations such as the police, because it enables the researcher to observe and understand the way things work on a daily basis (Gans, 1999). Since the 1960s, the police have been the subject of a considerable number of ethnographic studies involving participant observation (for example: Prokos and Padavic, 2002, Punch, 1989, Reiner, 2000, Van Maanen, 1988). As Reiner has noted, participant observation is a particularly useful method for research involving the police because the work of operational or 'frontline' officers:

...take[s] place outside the organization, away from immediate oversight by managers, with officers generally working alone or in pairs. This gives the rank and file considerable scope for making their accounts of incidents the authoritative ones as there is usually no challenging version other than those of the people who are being policed, who are normally low in 'the politics of discredibility.' The wish to penetrate this low visibility is why participant observation has been the main technique adopted by researchers wishing to analyse the practices and culture of policing (Reiner, 2000).

Prolonged immersion in a social setting allows the observer to see as others see. The participant observer is in much closer contact with people for a longer period of time and participates in many of the same kinds of activity as the members of the social setting being studied. The focus of the field observations in this piece of research was the specialist domestic violence teams created by

the new criminalisation policy. I observed the training of VSRT officers at the Police Academy over a one week period. This was the third group that had been trained since the new family violence policy had been introduced. I also observed the VSRT officers 'on the road'.

Observing the specialist Victim Safety Response Team (VSRT) in carrying out their duties meant I was able to study the ways in which officers go about their work, in terms of their interactions with victims and other members of the public, and assess how organisational norms and rules affect police behaviour and attitudes. The participant observer's extensive contact within the context of a social setting allows the context of people's behaviour to be mapped out fully. The participant observer interacts with people in a variety of different situations and roles, so that links between behaviour and context can be analysed.

It may be that, because of the unstructured nature of participant observation, it is more likely to uncover unexpected topics or issues. Participant observation enables the researcher to access both *frontstage* and *backstage* behaviour (Goffman, 1959, Meyrowitz, 1985). Meyrowitz describes 'front region' or 'onstage behaviour' as when:

...the performers are in the presence of their "audience" for a particular role, and they play a relatively ideal conception of a social role (1985).

Thus, when police officers are *frontstage* they are visibly enforcing the law and interacting with members of the community. Their actions, appearance and

demeanour act as representations of their organisation in the public eye.

However, when police officers are in their workspaces at the police station or in their vehicles they tend to display *backstage* behaviour. For Meyrowitz (1985) a backstage area is an:

...area that is hidden from the audience and they share this area with others who perform the same or similar roles vis-à-vis the audience (1985:29).

There are a number of benefits with observing both front and back stage behaviour. Maurice Punch (1989) reports that:

The primary insight that I gained...was that there exists a wide disparity between the public presentation of police work – as sober, legal, competent, professional and even “sacred” – and the backstage reality. Out of sight, there is another world of largely instrumental concerns, of simply getting through the day, of manipulation, violence, incompetence, humour and tomfoolery, and also of informal norms, rewards, and sanctions (1989).

It was crucial for an understanding of the implementation of the family violence legislation and associated policy framework to be able to observe the police in the execution of the policy in the back region. This included being present in their office environment, in the vehicle while on operational duties, in the tea room and so on. However, the presence of an observer does create reactive effects in the site of observation. People’s knowledge of the fact that they are being observed has the potential to disrupt the dynamics of the site being observed because conversations and interactions will occur in conjunction with the observer that otherwise would not happen. The presence of a member of

the public observing how officers behave may result in officers modifying their behaviour as in the concept of front stage behaviour when performers are in the presence of their 'audience' for a particular role, and they play a relatively ideal conception of a social role (Meyrowitz, 1985). There is no doubt that the need to accommodate a civilian in the routines of the office, in police vehicles and in site visits contributed some degree of disruption to the normal operations and interpersonal dynamics of the VSRT units being observed.

Another reason for choosing to employ participant observation in this study is its potential utility for understanding the language employed by the actors in the arena being researched. Becker and Geer (1957) argued that the participant observer is in the same position as a social anthropologist visiting a distant land, in that the language must be learned to enable a complete understanding of the culture. However, it is not simply the formal language that must be understood but also the *argot*—the special uses of words and slang that are important to penetrate that culture. Observing use of language in the setting brings increased clarity to the meanings of the words being used.

One acknowledged weakness of using participant observation in studying a dynamic situation such as the implementation of a criminal response to intimate partner violence by the police is that there is no way of predicting levels of activity. The activities of the specialist VSRT teams under observation in this study were reactive, dependent on the number of reported incidents on any

given day. Other researchers observing the police report similar issues. As Van Maanen (1978) has observed:

...so much policework (at least at the patrol level) is patently unpredictable, there is no guarantee that one's time in the field will be even roughly commensurate with the naturalistic observation of what the researcher might consider critical events. As many others have pointed out, the first-hand observation of the police in action can often be a boring and frustrating affair, since there is no assurance that one will see what one came to see (1978)

This was a problem in my research, since I was primarily concerned with observing the VSRT team in its investigation of family violence incidents and providing support to victims and there was no way of predicting how much activity would occur on any shift. I ended up spending about fifty of the hundred hours of fieldwork in the police station rather than 'on the road'. However, I utilised my time in 'soaking and poking' discussing past incidents, and gaining insight into the processes and systems that were in place.

Another major criticism made of participant observation is that the research is restricted to particular group(s), time-periods and geographical locations, which suggests that any findings only apply in that context. This means that generalisations about the organisation are often difficult to make. In this project, I was given permission by Tasmania Police to observe the training for the specialist family violence teams during a one week period at the Academy. I also gained permission to observe a number of shifts with two VSRT teams in

Southern Tasmania during a set period, which placed temporal limitations on the fieldwork. The addition of interviews to the research design enabled access to a wider variety of people and situations and associated research questions.

However, it should be noted that Tasmania Police made the decisions as to which VSRT teams would be available for observation and advised of the weeks and shifts in which I would be able to conduct my observations.

3.2.2.2 INTERVIEWS

It is likely that there is a wide range of issues that are simply not amenable to observation, so that asking people about them represents the only viable means of finding out about them within a qualitative research strategy. A research interview frequently entails the reconstruction of events by asking interviewees to think back over how a certain series of events unfolded in relation to a current situation. This reconstruction of events is something that cannot be accomplished through participant observation alone. In this project there were certain areas that could not be observed because of lack of permission and safety concerns.

The interview relies primarily on verbal behaviour and as such matters that interviewees take for granted are less likely to surface than in participant observation, where such implicit features in social life are more likely to be revealed as a result of the observer's continued presence and because of the ability to observe behaviour rather than just rely on what is said.

Structured interviews consist of short specific questions, usually read out exactly as on the interview schedule and in the order specified on the schedule. Both interviewer and respondent are limited in the subject matter that can be discussed. Structured interviews provide slightly more depth than a question as found on a quantitative survey. In a semi-structured interview the interviewer is guided by a list of questions or fairly specific topics to be covered, often referred to as an *interview schedule* or *questioning route* and the interviewee has a great deal of leeway in how to reply. Questions may not follow on exactly in the way outlined on the schedule. Questions that are not included in the schedule may be asked as the interviewers pick up on things said by respondents. But, by and large, all of the questions are asked and similar wording is used from interviewee to interviewee. The ordering of questions is less important than a conversational style which establishes rapport and where the interviewer can probe areas of interest and follow the respondent's interests and issues. Unstructured interviews have no overall structure, emulating a free flowing conversation with a number of possible topics. The researcher uses at most an *aide memoire* as a brief set of prompts on a range of topics. There may be just a single question that the interviewer asks with the interviewee encouraged to answer freely, with the interviewer simply responding to points that seem worthy of being followed up (Yates, 2004).

This research focuses on how participants understand and respond to intimate partner violence as a police officer, a magistrate, a police prosecutor, a victim advocate and so on. The central concern was the speaker's perspective or *lifeworld* (Schutz, 1954) and my interest was to establish the meanings attached to individual perspectives and to understand and make sense of multiple world views. With this in mind, semi-structured interviews were used because they were flexible – allowing for the exploration of subjective meanings and issues raised by the subject – and had the capacity for exploring complex and ambiguous topics in sufficient depth to produce a holistic description of the issues surrounding the criminalisation of intimate partner violence in Tasmania (Yates, 2004, Weiss, 1995).

3.3 RESEARCH PROCEDURE

3.3.1 DATA COLLECTION

The study received approval from the University Human Research Ethics Committee. The main ethical issues in this research rested around confidentiality and anonymity. After attending a meeting of the Ethics Committee with my supervisor it was established that the audiotapes would be erased after the interviewees had approved the transcripts because the jurisdiction was quite small and voices were potentially identifiable. All data was stored on computers protected by passwords. Interviews were de-identified by allocation of a code number which did not correspond to any identifying

information. Anonymised transcripts were stored in locked cabinets in accordance with University of Tasmania protocol.

3.3.2 FIELD OBSERVATIONS

3.3.2.1 VSRT TRAINING

The training for the specialist Victim Safety Response Team was held 14-19 May 2007. 21 participants attended. Some were already employed in VSRT teams in their districts and others were attending the training because of an interest in moving into the area. The week long course comprised 16 modules of teacher-led tuition plus 2 practical/case study sessions and a forum with counsellors, child protection and court support officers.

My activities involved observing tuition styles, content and class participation from the back of the auditorium. This passive observation was augmented by informal discussions with trainers and trainees and guest speakers during meal breaks and down times between sessions. I made notes and 'jottings' in a notebook which captured the meanings and approximate wordings of remarks and conversations (Emerson et al., 1995). My note taking activity was relatively unobtrusive in this context because everyone in the room was taking notes. I use my own notation style which is a mixture of Pitman shorthand and personally developed abbreviations which goes some way to protect the confidentiality of my notes.

3.3.2.2 VSRT OPERATIONS

I was rostered onto thirteen shifts, representing 102 hours, with two Victim Safety Response Teams in the Southern and Eastern Police Districts from July to October 2007. Most of the shifts I attended were 4 p.m. to midnight. One District's 'catchment area' was mostly urban while the other had a mixed suburban and rural operational area which included significant areas of broad acre public housing. The role of these specialist teams was to make contact with the victim shortly after the incident had occurred, and provide information, support and resources to maximise their safety and minimise the risk of the violence reoccurring.

The sources of observational data during this component of the research were gained from unstructured interviews during the working day – in down times or meal breaks, while travelling in the car to visit victims or while doing paperwork. Data contained in field notes include the content of included formal and informal discussions as well as my observation of interactions between the VSRT and other officers, between officers and victims, and officers and members of the general public. There was also observation of officer's behaviour and demeanour during telephone calls. During my shifts I was invited to share in the reading of case notes relating to the victims in the current caseload. I also observed officers' use of computerised case management systems.

Broadly my objectives were to observe how the specialist team responded to victim safety after a variety of family violence situations and implemented the

various aspects of the policy. I adopted a semi-naïve demeanour, as recommended by Punch (1989), at times self-deprecating in terms of my lack of knowledge about the practical side of policing. At times I referred to findings in the literature to ascertain whether the published results were applicable to the local situation. Questions were asked whenever opportunities presented but not recorded at the time of the observation. I felt that I would be inhibiting their natural behaviour and jeopardising their cooperation if I took notes so I recorded meaning and approximate content of conversations in my notebook at the end of each shift. One of the benefits I noted of being with the teams for extended groups of shifts was they dropped their guard after I had accompanied them for several days, as I had been able to develop their trust (Emerson et al., 1995).

I sought permission from the Department of Justice to include a third site of observation, of a number of meetings of the Integrated Case Coordination (ICC) Committee but this was not approved. The ICC brings together previously separate government organisations (Police, Health and Human Services, Justice) for information sharing and case management.

3.3.3 INTERVIEWS

This project comprised 32 semi structured interviews with individuals and three group interviews, conducted from May 2007 to December 2007. In the police service, interviews were conducted with first response officers, specialist domestic violence teams, police prosecutors and managing officers. In addition, I

interviewed magistrates and specialist family violence legal professionals. I also conducted three group interviews with family violence counselling staff, the staff of a women's shelter and a women's crisis service.

Table 6 Type and Number of research subjects interviewed

Type of respondent	Number
First response officers	14
VSRT officers	7
Family Violence Counsellors	5
Magistrates	4
Sergeants	3
Shelter workers	3
Women's Crisis Service	3
Lawyers	2
Police Prosecutors	2
Total	43

All but two interviews (one with a regional police prosecutor and one with a regional first response officer) were undertaken in face to face mode. The two non-face-to-face interviews were conducted over the telephone after two attempts had been made to meet face to face but had been cancelled due to police operational issues. The interviews with first response officers were conducted at the same time as the observations of the specialist family violence teams (VSRT). While police management were supportive of the research including valuing the input of frontline officers who are the first response team to a family violence incident, there was reluctance to grant approval to ride-

along with front line officers based on potential risk to my personal safety.

Approval was granted to ride-along with the VSRT.

3.3.3.1 RECRUITMENT

The police officers were selected by Tasmania Police, based on criteria that their service history included experience as 'first response' policing of domestic violence both before and since the family violence legislation and that the proportion of male to female was the same as the police service as a whole.

Initially, 20 officers were emailed with an invitation to participate in the research project and a detailed information sheet (Appendix B). As officers declined for various reasons, Tasmania Police made further selections from the group of officers with experience in family violence. The reasons given for not participating included annual leave, secondment to other divisions and some had resigned from the Police Service.

Recruitment of magistrates was undertaken by letter of invitation accompanied by an information sheet (Appendix C), and appointments for interview arranged at mutually convenient times. In the case of key informants (solicitors, shelter workers and other workers in non-government organisations associated with the family violence field), this group made initial contact with the researcher expressing interest in taking part in the research. This contact was followed up by a letter or email which included an information sheet about the research (Appendix D).

3.3.3.2 TIMING

All the interviews were conducted over a seven month period from May to December 2007. After the respondents indicated their interest in taking part, I sent an email with suggested times for interviews. Interviews were scheduled with officers at mutually convenient times and locations.

3.3.3.3 LOCATION

The interviews took place at various locations around the state. Several trips were made to the regional centres in order to conduct interviews. In most cases the police interviews were conducted in private interview rooms at the officer's police station. Magistrates were interviewed in their offices at the Magistrates Court in each region. Key Informants were interviewed at their workplaces. Two police officers were interviewed by telephone.

3.3.3.4 AUDIO TAPING

All the interviews were audio taped. The procedure of recording and transcription of interviews has the following advantages:

- it helps to correct the natural limitations of our memories and of the intuitive glosses that we might place on what people say in interviews;
- it allows more thorough examination of what people say;
- it permits repeated examinations of the interviewees' answers;
- it opens up the data to public scrutiny by other researchers, who can evaluate the analysis that is carried out by the original researchers of the data (that is, a secondary analysis);
- it therefore helps to counter accusations that an analysis might have been influenced by a researcher's values or biases; and

- it allows the data to be reused in other ways from those intended by the original researcher—for example, in the light of new theoretical ideas or analytic strategies.

The main disadvantage of audio taping is that interviewees may feel inhibited by the presence of the tape machine. For the purposes of this project, a small Sony DCM4000V cassette recorder was used with the addition of a Sony ECM-F8 conference microphone. Interviews were recorded on high quality 90 minute cassette tapes. At commencement of the interview, the researcher sought consent to having the interview audio taped to enable a totally accurate record of the conversation to be collected. Interviewees were advised that they would be sent a copy of the transcript for verification before the interview was amalgamated into the research findings. All interviewees agreed to audio taping and ignored the device after the first few questions.

3.3.3.5 QUESTIONING ROUTES

Prior to conducting the interviews all respondents were provided with an information sheet outlining the purposes of the study² and a consent form for signature³. . All interviews commenced with a brief overview of the project followed by a set of ‘ice breaker’ questions to establish some rapport. For police officers this was ‘How long have you been in the Police Service?’ gradually

² Information sheets for Police are provided at Appendix D; for Magistrates at Appendix I and for key informants at Appendix L.

³ Consent forms for police are provided at Appendix D and at Appendix M for key informants.

moving towards their experiences with policing domestic violence via semi-structured questions arising from the initial response.

3.3.3.5.1 POLICE

As well as completing the consent forms, the fourteen front line police officers were asked to complete a short questionnaire before the interview commenced (see Appendix E).

The majority of first response police interviews were from the Southern District (38 per cent), 23 per cent were from either the Northern or Western Districts, and 15 per cent were from Eastern. 85 per cent of these officers were male. Length of service ranged from three years to 35 years. The majority of officers were married (69%). Fifty four per cent were less than 35 years of age. More than three quarters had children. The majority of children were under 18 years of age. Fifty four per cent of the officers reported that high school was their highest level of education, 38 per cent had Year 12 and 8 per cent had a Diploma. Twenty three per cent were still at school prior to joining the police, almost one third had worked in a clerical area and another 23 per cent had worked in a trade area.

Police interviews ranged from 45-90 minutes in length. Although I used a guideline (Appendix H), the questions were open-ended and designed to follow particular experiences of each interviewee.

Table 7 Characteristics of Police Officers

Characteristic	Detail
Police District	38% South, 23% North and West, 15% East
Gender	85% male
Length of service	<5 years 8%, 5-10 54% 10-20 16% more than 30 years 23%
Marital Status	69% married, 15% dating, 8% de facto or divorced
Age Group	18-24 8%, 25-34 46%, 35-44 15%, 45-54 15% 55-64 15%
Children	77% had children
Ages of children	Under 5 30%, 5-10 30%, 10-18 10%, adult 30%
Highest level of education	54% high school, 38% year 12, 8% Diploma
Work experience prior to joining Police Service	23% in education, 32% clerical, 23% trade

My observations of training and participation in ‘ride-alongs’ with VSRT increased my rapport with frontline officers during fieldwork and streamlining questions for the interviews. The experience of field observation with the VSRT and the previous document analysis meant I had knowledge of the computerised system and could speak in shorthand using relevant acronyms and jargon. Because of the firsthand experience of these officers with family violence incidents, I was keen to explore their view of the new policies and the changes that they had made to the way they did their jobs. I was also interested in the strengths and weaknesses of the policy from a frontline policing perspective.

3.3.3.5.2 SENIOR AND SPECIALIST POLICE

These officers had a range of different responsibilities in the implementation of the new laws and policies. Interviews with these officers took place towards the

end of the data collection period. These interviews were also semi structured, using the same guidelines as for operational police (Appendix H) and relied heavily on the accumulated knowledge that had been gained.

3.3.3.5.3 MAGISTRATES AND OTHER KEY INFORMANTS

These interviews also ranged from 45 minutes to 90 minutes. Three of the interviews were conducted with the magistrate alone, and in the fourth case the magistrate's clerk was also present. The discussion guide for magistrates is attached as Appendix I.

A formal group interview was held with four family violence counsellors at the end of a staff meeting, and a less formal group interview with shelter workers at the shelter during their morning break. These interviews all commenced with questions about the respondent's experience with family violence and followed a semi structured route through the components of the new family violence policy. Individual interviews were held with solicitors and representatives of other non-government organisations working in the victim support area. The discussion guide for key informants is attached at Appendix J.

Interviews were transcribed using a Sanyo 8080 standard cassette transcriber. Transcripts were sent to the interviewees for verification and opportunity for clarification before the transcripts were imported into NVivo for analysis.

3.4 DATA MANAGEMENT AND ANALYSIS

3.4.1 QUANTITATIVE

I began my project with a plethora of ideas and questions originating from my reading of the literature, family violence policy and media reports. The set of police data on risk assessment was imported into SPSS version 14 and a number of analytical procedures were performed to clarify and enumerate the risk factors most prevalent in this jurisdiction. The dataset was interrogated to establish an overview of the locations of the violent incidents around the state and the proportions of male and female victims. The risk factors were ranked in order of prevalence and explored by cross tabulations to identify patterns. Ranges of risk scores were computed for each gender and location of offence. This snapshot of intimate partner violence incidents was later used during the interviews as a prompt for comment and to generally build rapport with the respondents.

3.4.2 QUALITATIVE

The strengths of qualitative data rest on the competence with which their analysis is carried out (Miles and Huberman (1994) cited in Leech and Onwuegbuzie, 2007).

The interviews were transcribed verbatim to capture 'rich and thick' data which would provide enough detail to maximise the potential for extruding meaning (Corbin and Strauss, 1990, Becker et al., 2004). Interviewees were sent copies of

their transcripts for verification and offered the opportunity to clarify any points.

No interviewees asked for any changes to be made to their transcripts.

In order to process and evaluate the large range of qualitative sources collected during the project, computer-assisted qualitative data analysis software (CAQDAS) was employed. NVIVO 7 (QSR International, 2006) represented the most recent software for the organisation of non-numerical and unstructured data. CAQDAS has been available for more than a decade but their use is still relatively limited compared to their full potential (Leech and Onwuegbuzie, 2007, Bringer et al., 2006).

3.4.3 CODING

Glaser and Strass (1967), the developers of grounded theory, created the method of constant comparison analysis, commonly referred to as 'coding' (Richards, 2005, Weiss, 1995, Babbie, 1992, Emerson et al., 1995, Strauss, 1987)

Interviews and text from the police Family Violence reporting system (FVMS) were coded segment by segment in two ways. Preliminary coding of each segment was grounded in my reading of intimate partner violence. This was an inductive form of coding where the researchers bring their previous experience and 'theoretical sensitivity' based on reading of the literature (Strauss, 1987:12). In a constant comparison type of analysis, the researcher reads through the data, underlining words, phrases and themes (Corbin and Strauss, 1990). Each 'chunk' is allocated a code. Before assigning a code, earlier codes are checked to see if

there is an existing similar code. Using CAQDAS, data are disaggregated by breaking them down into manageable components, and identifying and naming categories. Text can be coded easily into new emergent concepts and themes. Codes can be cross referenced with demographic information or other codes. Another advantage of CAQDAS is that they can be used to record all the major decisions made by the researcher, thereby creating an audit trail. In this project for example, a list of existing codes and major themes was printed out after each coding session. A secondary level of coding within categories was then employed to tease out salient themes or 'discourses', Corbin and Strauss call this selective coding of 'core categories' (1990). The core category represents the central phenomenon of the research.

In this project, the core categories became the 'storylines' which appeared in the interview transcripts. The second level of coding illuminated the common threads between the storylines to become the three main discourses around victimhood, risk and justice. Hajer maintained that a discourse coalition can be said to dominate a given political realm only if it dominates the discursive space (discourse structuration) and the discourse is reflected in institutional practices (discourse institutionalisation) that is; the actual policy process is conducted according to the ideas of a given discourse. The categories of respondents were mapped against the storylines and discourses to ascertain the composition of each discourse coalition. Finally, each of the discourses was tested against

Hajer's critical conditions of discourse structuration and discourse

institutionalisation. For structuration to be evident, the discourses had to be

well entrenched within the coalition and to an extent taken for granted as fact.

To be considered institutionalised, discourses that needed to become formalised into policy, rules, legislation, codes of practice, and so on.

3.4.4 VALIDATION FRAMEWORK

The aim of a validation framework is to impute both rigour and relevance to the data.

Relevance without rigor is no better than rigor without relevance (Guba, 1981).

Research findings based on qualitative methods are often criticised for their inability to be extrapolated to the general population. However, a good case study should reflect the multiple realities constructed by respondents to the research and demonstrate in what ways it has taken account of the mutual shaping of elements. It should also rely on pattern theories rather than concepts of cause and effect; reject generalisations and openly take into account any value influences that could impact on the research (Lincoln and Guba, 1988).

Values can influence the choice of the subject matter, the choice of framework, choice of paradigm. There are also values that exist at a given research site – including those of the investigator – and we need to acknowledge that total objectivity is therefore limited. As I was the data collection instrument in this research project, I was aware that I needed to develop some credibility checks to

acknowledge that the data could do with some protection from my personal enthusiasms.

The validation process included checking any judgements made for their credibility or truth value (internal validity), transferability or applicability (external validity), dependability or consistency (reliability) and confirmability or neutrality (objectivity) (Onwuegbuzie and Leech, 2005). Such a validation process enables the researcher

to raise consciousness, or unite divided consciousness, via the dialectical process, so that an individual may achieve a more informed and sophisticated construction; the achievement, via the enquiry process of 'an increased understanding of... the whats and whys of various expressed constructions'; the facilitation and stimulation to action, or feedback-action validity; and the empowerment of all persons at risk or with something at stake so as to enable them to influence and control the process by providing practice in the use of power (Lincoln and Guba, 1988).

Thus the process needed to include checking for representativeness; for researcher bias; by triangulating data sources; searching for rival hypotheses or explanations of data and searching for negative cases. Validation requires the quality of the narrative to be constantly assessed for reality, causality and its ability to be generalised while at the same time demonstrating objectivity.

Harris and Holmes stress that this is particularly important in writing up qualitative research:

Descriptions should be accurate and convincing, rather than objective and dispassionate. Although it should admit that a range of alternative interpretations are possible, the text should convince the reader that the events described have not been fabricated, that they could have been witnessed by any ethnographer, and that they have significant consequences for the participants and/or the wider society (Harris and Holmes, no date).

Thus the validation process employed in this research was a constant and iterative procedure which went hand in hand with the grounded theory process.

3.5 REFLECTIONS ON THE METHODOLOGY

Gaining access to the police was expedited through formal channels through the Tasmanian Institute of Law Enforcement Studies (TILES). In-principle support was given early in the project for access to a dataset and staff for the purposes of interview. However it took over 12 months for the risk assessment data to be supplied and then several more months for official approval to observe training. The list of potential interviewees was re-drafted several times because of a lack of understanding of the project by civilian staff of the Police Service.

Before undertaking the fieldwork I needed to provide assurance of indemnity from liability. The University provided this. The approval for observation was on the proviso that I would not enter premises while a domestic incident was taking place. Before entering the VSRT vehicle I was given precise instructions as to where I would sit (behind the driver) but that I would be moved to the front

passenger seat if an offender was apprehended. The second officer would then sit in the rear of the vehicle with the offender.

I did not have free access through the buildings at the sites of observation. At Police Headquarters in Hobart an officer had to accompany me if I was required to move between floors. In the smaller Clarence Plains station, which was mostly open plan behind the front desk, I experienced no internal security measures.

Assuring anonymity was a constant issue because of the small population base of Tasmania. In the case of magistrates the Ethics Committee ruled that I would not refer to a magistrate's location or gender because there was such a small pool of magistrates in the State and any classification would reduce the anonymity of the subjects. I was instructed that in my descriptions of operational activities and in referring to statements made by police in the interviews that I could only refer to their gender and whether they operated in a metropolitan or rural area. At times during the interviews, the interviewee asked me to switch off the recording device when specific cases were mentioned. I was also asked to switch off the audio tape when respondents wanted to make a comment 'off the record' (Castellano, 2007). While I accompanied the VSRT into private

residences⁴, formal consent was not sought from the people present. The officers introduced me at the front door and asked whether I could accompany the officers inside to observe their practice in dealing with family violence cases. At no stage was entry denied. My attendance was deliberately passive inside the residence; however victims did include me in the conversations and sometimes asked me direct questions of a practical, problem-solving nature in relation to their short term safety. It seemed that victims were comfortable with my presence.

One of the main tenets of the thesis is that knowledge is socially constructed and therefore my identity mattered as well. I am a mature woman with quite a bit of life experience (including being a migrant and having had my share of failed relationships). I have had a successful career including significant experience in social research and policy evaluation, raised children as a sole parent and have travelled extensively. However, experience of the criminal justice system prior to this research was limited and experience with intimate partner violence was second-hand at best. My passion for social justice was challenged when I found myself frustrated by the attitudes and behaviours of the members of the public the police were dealing with.

⁴ This was not while an incident was taking place. In all my ride-alongs with VSRT, we visited victims the following day or in subsequent days.

In fieldwork, the researcher is constantly learning ‘how to be’ (Castellano, 2007) as well as understanding and recording what is going on. I was regularly challenged by the tensions between fitting into the culture of the observed organisation and adhering to professional protocol and standards. I was aware that any hesitation, comment or facial expression on my part could change the behaviour of the observed officers and therefore change the data. This meant that I was highly ‘wired’ the whole time while trying to appear relaxed, friendly and unintimidating. I found that I was physically and emotionally exhausted after each shift and this was compounded over the weeks of observational work as the fieldwork was undertaken through a normal rostered week for the VSRT, which included a mix of day, afternoon and night shifts.

My status as a PhD student created some hesitance when dealing with police officers, but I felt that it was a benefit, along with my age, in dealing with the magistrates, who treated me as an equal.

I was conscious that I was affecting my data when I engaged with the instructors and students during police training and when victims and their families engaged me in conversation while visiting the residence. However, if I had enforced a strict no-communication stance, I would have alienated people whose input was crucial. For example, during the observation of the training at the Academy a Police Manager asked me to elaborate on the background research behind each individual item on the risk assessment tool. At the time of the training, I had

recently conducted the initial review of the risk assessment tool (RAST) for Tasmania Police and the managers were aware of this and familiar with the report (Winter and Julian, 2005). To refuse would have been very awkward, may have jeopardised future requests for observation time and damaged the relationship between the Police Service and the University (Castellano, 2007). However, I was conscious that this group of trainees received a substantially different session on risk assessment than previous course participants.

Presence at the training had a downstream effect on subsequent fieldwork with the VSRT. I was not really able to downplay my researcher status in one of the teams as two of the VSRT officers had been present during my observation of their training at the Academy. They had observed senior police deferring to me on background issues which made it harder to adopt a semi-naïve attitude. I found that those officers that knew me from the course tended to avoid me and attempted to divert me from accompanying them on their visits to victims.

Also while having the research project introduced to line officers via a letter from the Commissioner was invaluable for gaining cooperation on most levels, it also generated a degree of reluctance in some junior police to participate in the research because of perception of collusion with management; manifesting in that 12 officers suggested by management as having had experience with family violence both before and after Safe at Home were 'too busy' to speak with me and two of the police managers successfully avoided my attempts at contact

(Van Maanen, 1988). I also noted that a proportion of frontline officers were evasive in their response to my questioning, both during the observational periods and at formal interview. This active and passive resistance impacts on the ability of the researcher to fully explore issues in a human services environment as well as contributing to limitations of the data collected. A valuable addition to the fieldwork would have been attendance at a sample of meetings of the Integrated Case Coordination Committee (ICCC), to observe the interactions of the representatives of different agencies. This additional data would have been invaluable for the verification of anecdotal evidence that certain discourses are privileged amongst this group. While I received a number of comments regarding the operation of this group, my data would have been much more rigorous had I been able to include this site in the fieldwork component.

3.5.1 ETHICAL CONSIDERATIONS

The research area of family violence is an undeniably sensitive area and the Human Research Ethics Committee employed due diligence in ensuring that the research practices protected everyone involved. Gaining Ethics approval for this project was a long and involved process and involved the researcher meeting with the Chair of the Committee and also addressing a full Committee meeting. All those that agreed to formally participate in the study remained in it. All

respondents filled in consent forms and none withdrew after having agreed to participate.

There were a number of informal participants in this study for which formal consent was not sought. The police officers who were undertaking the VSRT training did not formally consent to my observing their course. Information about my research project was given verbally by the sergeants running the course. I was also informally introduced to officers while visiting various police stations and engaged a number of officers in informal discussions about their experiences with family violence incidents. I was also introduced to victims as a person studying police response to family violence and officers asked for permission for me to enter into victims' homes. All victims gave verbal consent. As mentioned above, I adopted a neutral stance and did not take notes while in the victims' homes as I was conscious that they had not formally agreed to an interview.

It is my experience in evaluating human service programs that the formal consent process adopted by academic ethics committees, while seeking to protect respondent interest, is also intimidating. The officers that were 'too busy' to attend an interview with me may well have been daunted by the quantity of reading matter in high level language that accompanies an invitation to participate.

3.6 SUMMARY

This chapter has provided an overview of the research rationale, explaining the adoption of ethnographic methods and the application of a feminist and discursive framework and Hajer's concept of discourse coalitions as the basis of the methodology. The chapter has detailed the development of the research design and outlined the ethnographic methods to be employed and the primary and secondary sources that will be used in the execution of the research. Data collection procedures have been explained in detail including locations for field observations and the selection, recruitment, methods adopted for acquiring consent and questioning guidelines for the three main categories of informants (police, magistrates and key informants). Processes for managing and analysing both quantitative and qualitative data were discussed. Finally, the chapter also included some personal reflections on the methodology. The following chapter is the first results chapter, and focuses on the narratives of the police officers interviewed for the research.

4 POLICE NARRATIVES

This chapter explores the main themes arising from the interviews with fourteen generalist or 'first response' officers, seven members of Victim Safety Response Teams (VSRT) and three sergeants from all four Police Districts in Tasmania. All police officers interviewed had experience in the policing of domestic violence both before and after the introduction of the *Family Violence Act 2004* and its associated integrated response. These interviews explored a number of themes around the components of the coordinated response including the officer's practical experiences in dealing with family violence incidents⁵.

The chapter also contains several vignettes which illustrate actual victim scenarios that were observed during fieldwork⁶. These vignettes are included to provide context for the types of victim situations that police encounter on a daily basis.

⁵ Tasmania is a small jurisdiction - to protect officer anonymity all quotations from interview transcripts are noted as Police Officer (n).

⁶ Identifying factors have been removed to provide victim anonymity.

4.1 RISK PROFILE

Central to the new approach of Tasmania Police in responding to intimate partner violence is the risk assessment process. This preliminary section in the chapter will introduce a profile of family violence in Tasmania through brief discussion of the analysis of 906 completed risk assessments from 2005, to give some context to the comments made by police officers in the following sections.

As mentioned earlier, the *Safe at Home* program includes the practice of compiling detailed risk assessments at the time of the incident. The Tasmanian tool is known by the acronym RAST. The RAST, and its counterparts in other jurisdictions, uses a range of identified risk ‘markers’ or ‘factors’ which are an array of psychological and psychosocial characteristics, as well as factors which impact on the dynamics of the relationship. They broadly fall into groups which are clinical factors, historical factors, dispositional factors and context factors (Winter and Julian, 2005). All the factors have been found to act as signals that abuse is likely to escalate quickly and with potentially serious consequences (Gondolf, 2002).

The RAST is designed to calculate the likelihood of further violence occurring (or escalation of the violence) through a series of questions about known risk factors. The RAST is administered to the victim by attending police officers at the time of the incident. It provides information that, in addition to other

matters, may affect the prospect of a suspect receiving bail. It is not used as a basis for decisions regarding arrest. The RAST is a single page 34 item checklist with risk factors arrayed in two categories, Group A (those that may indicate that a sharp escalation in risk is imminent) and Group B (indicators of risk of less severity than Group A factors but which remain significant warning signs of potential escalation).

The Tasmanian Institute of Law Enforcement Studies (TILES) provided an overall positive assessment of the RAST. TILES considered that the use of an actuarial assessment tool, such as the RAST, to be an improvement on informal, subjective assessments traditionally used by police to assess the risk of re-offending. In addition, the RAST provides a transparent record of decision-making processes with respect to the management of risk and safety of victims (Tasmanian Institute of Law Enforcement Studies, 2005). As a result of statistical analysis of incidents in which the RAST was used, to verify the validity of the RAST with respect to the Tasmanian population, TILES found that in its current form the RAST had modest predictive utility, predicting repeat offending in 75 per cent of cases, and was therefore comparable to other risk assessment tools used in the criminal justice arena (Mason and Julian, 2009).

Of the 906 victims who completed RASTs in the dataset, 786 (87 per cent) were female (five of these in same sex relationships); 113 (12.5 per cent) were male (three in same sex relationships). Twenty-three per cent (201) were

from the metropolitan area; 39 per cent (345) from regional centres and 37 per cent (322) from rural localities.⁷

The maximum possible score on a RAST is 86. Scores of 13 or less are classified as low risk, scores of 14-27 are medium risk and scores of over 28 are deemed high risk. In the dataset provided by Tasmania Police the risk scores for female victims ranged from 0 to 70 and the risk scores for male victims ranged between 4 and 46.

Table 8 indicates that the most common factor is previous assault of the victim, where in 634 cases, or 65%, there has been prior assault. This confirms previous research findings which indicate that previous assault is the best indicator of future assault (Carlson et al., 1999, Taft et al., 2001). In 50% of cases, the victim was assaulted in the current incident.

Table 8 Group Risk Factors in Tasmanian Family Violence Risk Assessments 2005

Frequency of Group A risk factors		Cases	Per Cent
Group A risk factors	victim assaulted in past	634	65
	victim assaulted in this incident	481	50
	level of violence escalated	428	44
	bizarre, paranoid or delusional behaviour	339	35

⁷ Metropolitan was defined as Greater Hobart, regional centres were the cities of Launceston and Devonport and Burnie and their suburban surrounds, rural is all remaining localities.

	separation after cohabitation	294	30
	victim terrified	272	28
	offender breached restraint or P/FVO	227	23
	suicide attempt	202	21
	pregnancy or new birth	201	21
	threats to kill victim or child(ren)	189	20
	offender stalked victim/others	156	16
	possession or access to firearms	134	14
	child assaulted in the past	81	8
	cultural or disability issues	53	5
	child assaulted in this incident	30	3
	offender killed family pet	25	3
	sexual assault or rape arrest	18	2
	previous murder/manslaughter arrest	14	1

* Does not total to 100% because more than one factor may apply

In 44% of cases, the level of violence increased in recent times while in 35% of cases there was current bizarre, paranoid or delusional behaviour. In almost a quarter of cases, the offender breached a family violence or other restraint order. In 21% of cases there was a pregnancy or new birth in the household and in one in 5 of the cases there have been threats to kill the victim or children. Stalking is reported in 16% of cases, while possession or access to firearms was a risk in 14% of cases. While only small in percentage terms, there were 18 cases where the offender had previous arrest history for rape or sexual assault, and 14 cases where there was a previous arrest for murder or manslaughter.

Table 9 below shows the distribution of Group B risk factors. The most prevalent Group B factor is jealous and intimidating behaviour by the offender in 71% of cases. In over half the cases, the offender is unemployed. In 43%

there is a history of violence against other people. In 42% of cases there is an alcohol problem, and in one third a drug use problem with 8% not taking prescribed medication.

Table 9 Group B Risk Factors in Tasmanian Family Violence Risk Assessments 2005

Frequency of Group B risk factors		Cases	Per Cent
Group B risk factors	offender jealous, obsessive, intimidating or bitter	689	71
	offender unemployed	494	51
	violence against any other person in past	418	43
	victim afraid	411	42
	alcohol problem	411	42
	offender or relationship financial difficulty	342	35
	threats to kill in the past	338	35
	drug use problem	325	33
	current or history of depression	311	32
	suicidal fantasy or threats	233	24
	victim or child/ren physically injured	228	23
	diagnosed mental illness/disorder	127	13
	homicidal fantasy or threats	109	11
	not taking prescribed medication	79	8
	injury or threat to pets	72	7
	strangling or suffocation	60	6

** Does not total to 100% because more than one factor may apply*

Twenty-six per cent of the victims in the dataset reported low levels of risk of the violence escalating, 52 per cent had medium levels and 22 per cent had high levels of risk. Adjusting for the gender of the victim, 23 per cent of female victims were at low risk compared to 43 per cent of males. A quarter of female victims were at high risk compared with 5 per cent of males.

Table 10 RAST scores for male and female victims

	Female Victims		Male Victims		Total	
RAST	N	%	N	%	N	%
Low (<13)	182	23	49	43	231	26
Medium (14-27)	410	52	57	50	467	52
High (>28)	197	25	6	5	203	22
Total	786	100	113	100	906	100

Female victims from Regional Centres recorded RAST scores ranging between 0 and 54 with average scores of 20 (SD 9.74); the female victims from rural areas reported risk markers totalling between 0 and 55 and an average RAST score of 23; and females from the Metropolitan area scores ranged from 2 to 70 with an average score of 21.⁸

Table 11 Average RAST scores by Victim Gender and Location

	Female Victims			Male Victims		
	Distribution %	RAST ave	SD	Distribution %	RAST ave	SD
Metropolitan	20	21	10.77	3	15	7.7
Regional Centre	33	20	9.74	6	17	8
Rural	33	23	10.52	4	16	8

Male victims from Regional Centres recorded risk assessment scores between 6 and 46 and average RAST scores of 17; male victims from rural localities

⁸ There were a small number of female victims from outside Tasmania

scores ranged between 4 and 44 with an average of 16 while the scores for male victims from the metropolitan area ranged between 4 and 36 with an average RAST score of 15.

There were marked differences in the risk profile of male and female victims when looking at the clusters of risk factors. More female victims:

- reported bizarre, paranoid or delusional behaviour of the offender
- were likely to be terrified of the offender
- have had the offender breach a family violence order.
- reported killing family pets
- reported offender had previous sexual assault/murder/manslaughter convictions
- stalking, offender's access to firearms and threats to kill were more significant risks for rural women
- more likely to be afraid of the offender and to report that the offender had been violent to other people in the past.
- were more likely to report offender had drug use problems; and
- more likely to report strangulation or suffocation.

Where the victim is male, the offender's lack of employment and mental health (depression plus diagnosed mental health issue) are the main risk factors after previous assault. Alcohol appears a risk factor for males in rural and regional areas whereas separation was a risk factor for male victims in the metropolitan area. Male victims living in regional centres were more likely to be affected by cultural or disability issues.

Financial difficulties were severe risks for rural victims of both genders.

Offenders from rural areas had higher rates of homicidal and suicidal

fantasies. Alcohol was a significant risk for rural and metropolitan female victims as well as male rural victims. It was a significantly lower risk for male victims in the metropolitan area.

From this snapshot we can see that when a Tasmania Police officer walks into an incident which has been reported as family violence, there are a number of factors which are likely to be in play; in two out of three incidents it is likely the violence has occurred in the past and the offender is jealous, obsessive, intimidating or bitter.

4.2 IMPLEMENTING RISK ASSESSMENT TOOLS

One of the main themes running through the interviews with police was scepticism about the risk assessment process, both in terms of the research behind the tool and faith in their fellow officers to do a good job in filling it out.

Officers often commented that the RAST was a good tool if it was used properly.

Obviously everything that is there has to be there because you need to know how the victim is feeling and have they killed an animal, their mental state, financial situations, have they assaulted children before, assaulted them before, access to firearms, that's the stuff that we need to know to protect the victim as best we can. I'm pretty sure that everything on there would pretty much have to be on there for us to gauge a score of how the victim is actually feeling about her partner (Police Officer 4).

Many officers were critical about the way some of their colleagues rushed through the form without probing further. The following quotes from officer interviews illustrate the ambivalence felt about the utility of the risk assessment process as observed in practice.

I think [RASTS] work well, depends though ... some people might have the wrong attitude to them, but it was a very helpful guide to what was going on I suppose, some people would... for example a question on there ... has the person ever outlined threats or suicidal fantasies? you can get a lot of variance in results or scores because some people would ask that question and in return they would get 'Yeah, he's said he'd go and kill himself the other day' and that would have been marked down, whereas some people would ask that question and they would get that answer and then say 'no, what I'm after is has he actually sat there outlined in detail that he wants to kill himself by getting that piece of rope and going out to the shed, and waiting til you were at work or whatever' so you would get a lot of variance from that question and how it was interpreted (Police Officer 5).

I think it's good as long as people, as long as the officers filling it out questions them about the positive or negative answers. Why do you say he's suicidal? What's he done to make you think he's suicidal? Because I think a lot of people tend to tick them and don't really follow up on the reasons behind the answers. So I think it's good in that way, if it's done properly (Police Officer 10).

You've got to take the statement from the victim first and then see from that statement what fits into the risk assessment. Rather than tend to look at the risk assessment and start questioning from the risk assessment because you could put a lot of things in there that could be very closely linked but if you harshly go through it, you will reduce it. once you've got over the 30 mark, does it really matter whether you've got 30 or 35... but when you get in that

range of 26 to 28 mark, you've really got to look at it and say 'if someone is in that 27 mark, the difference is that it's a Family Violence Order and this side is a PFVO'. And though to get up to that mark it's got to be fairly major one that you're dealing with (Police Officer 11).

It seemed that all those officers interviewed had not encountered a situation which resulted in an extremely high RAST score (40+). If they mentioned a RAST being 'high', I asked 'how high?' and the answer was inevitably in the low to mid-30s.

The RAST was not designed to be a questionnaire; it is a summary sheet for the risk factors that have been disclosed by the victim. However, many officers reported that they were aware that some of their colleagues were asking questions directly off the form. The RAST has a companion document – an *aide memoire* – that is a two page interview tool which progresses in a conversational style from questions about the most recent incident, to information about the relationship, family violence history, the offenders' criminal history and the offenders' current behaviour. The RAST in comparison is a single page sheet with the risk markers grouped in the two groups (A for severe and B for less severe), ranked in no particular order and therefore unsuitable for use as an interview tool.

It's no real tool for uniform police, I don't think. I mean if we know the person. We know a lot of the people, we know what they're like, we know whether they're violent or not. But obviously there's stations where they don't. So obviously they need a need the tool there. I don't know. It's helpful to get an

insight into this person and what they've done previously, like injured pets. It's an insight into that, but I don't think it's useful all the time (Police Officer 3).

During the specialist training course for the Victim Safety Response Team (VSRT), it transpired that most of the officers did not use the *aide memoire* at all, and asked the victim questions directly from the RAST. One officer stated that he had used the *aide memoire* for a time to familiarise himself with the risk assessment process and then stopped using it.

[used the aide memoire] perhaps two or three times, because once you got into the routine about how to go about asking the questions, you didn't use it. It was helpful when you first do it (Police Officer 9).

Caroline is in her early 20s with two small children and a step child in her care. Baby was very tiny for its age. Police were called to an incident which was triggered by their separation. RAST is 26 (medium risk). VSRT arranged for the locks to be changed but she was also applying for a transfer through public housing as the offender's family and friends live in close proximity and she felt that she would be a target for their animosity. Caroline was very stressed and mentioned suffering from bulimia. She seemed to be hearing impaired. VSRT keep in touch on a daily basis.

Vignette 1 Caroline

Most officers seemed to adopt an apologetic demeanour when administering the RAST, with many of them reporting that they explained to victims that the RAST contained some 'funny' or 'silly' questions but it was something they had to do as part of their procedure.

No, we don't [use the aide memoire]. We just ask the questions pretty much. I don't think they're tricky, I think you just say to them [victims] 'we have to

ask these questions, so if any of them sound funny it's because we have to', and I think they're pretty fine with that (Police Officer 2).

In many cases they used the question about killing animals as an example of 'silly' or 'funny' questions on the RAST. The fact that an officer doesn't see the point in asking about cruelty to animals is one example of inadequate explanation of the rationale behind the risk assessment tool.

The RAST – I can't see what significance it's got. Other than putting numbers on a piece of paper and I just, yeah.... What does it mean? What does it mean when I'm interviewing you as a victim and you tell me 'yeah my husband killed a dog. He put it down because it was sick'. What significance does that have in a domestic? (Police Officer 6).

The following quote from an officer in a regional centre demonstrates how he attempts to explain away departure from protocol. He defends his behaviour by saying 'we do it differently here' and going into detail about the benefits of getting the information from a victim in the form of a statutory declaration.

No, we don't tend to (use the aide memoire), and I don't tend to use it and I don't know many officers use it here. I don't know about down south, but we don't, we tend to question a person, and they tend to answer yes or no, or perhaps yes maybe. And then we explain a bit further. Because we don't do that, we say these questions might sound a bit silly, but has the person done this or that. But from the stat decs⁹ we take too, because we take stat decs

⁹ Statutory declaration

here, sometimes in getting the background information, we ask what happened previously has he assaulted you? or has she assaulted you? You get an idea of what's gone on. And you know what the basic problem is. But if you ask, has this person ever killed an animal? 'Oh yes, he killed a chook one day' 'why did he do that?' – 'oh well, it was for food'. Some police might take that as a literal 'yes' and circle it (Police Officer 1).

Police Officer 1's final point about police officers asking the questions in a laundry list fashion illustrates another common theme. Some officers accused less experienced colleagues of being too literal and not probing sufficiently. The RAST also includes the use of an admiralty scale (to rank the reliability and accuracy of the source of the information) and a capacity for professional over-ride by a senior officer. Officers commented that in the early stages of the implementation of the risk assessment process there were issues with inconsistencies in scoring.

We used to get reports come through sometimes and we used to wonder about it. But often that was after the fact and you might see a report the next day where someone has been given a certain risk score and you might go through that and you might have cause to go through that and do a risk and safety plan at some stage and get a different score, a lower score. It's far from perfect, that's for sure (Police Officer 9).

In the VSRT course observed for this research officers were urged to check each other's RAST scores wherever possible. One Police District addressed inconsistencies in scoring risk assessments by additional training and

introducing a requirement for officers to structure the victim's statement to provide detail on each risk factor identified in the RAST.

We have devised a stat dec for high RAST scoring which includes all the questions on the RAST – to validate the information. We want to be sure. And the victim signs it (Police Officer 14).

The two validation components contained on the RAST form require officers are to assess the reliability of the source on a six point scale:

- Completely reliable;
- Usually reliable;
- Fairly reliable;
- Not usually reliable;
- Unreliable; and
- Reliability unknown.

and also the accuracy of the information:

- Report confirmed;
- Probably true report;
- Possibly true report;
- Doubtfully true report;
- Improbable report; and
- Truth cannot be judged.

From the interviews undertaken for this research it would appear that these admiralty scores are seldom used. Some officers reported sometimes highlighting the 'reliability unknown' category but usually leaving these sections blank. The victimology literature that the RAST was based on stresses that the best and most reliable evidence is to be obtained by interviewing the source (Arnold and Robson, 2006). However, throughout the

interviews, there is a sense that the police are reluctant to accept the victim's word. This will be explored later in this chapter, but the following quotations illustrate the scepticism that frontline officers have about the veracity of victim-based evidence:

I think it's good having a RAST score, but some of the questions, I think it's already been amended a couple of times, with the scale of things. A lot of the time you can't actually ask the offender if it's correct, so you are basically going by the word of the victim. And, she can basically say anything, and she signs the bottom line, and you don't know the background of the people, you've gotta take their word for it, and a lot of times the RAST scores will end up on a higher scale (Police Officer 4).

[It's a good tool] But by the same token, the officer using it needs to be aware that the person may try and sway the answers (Police Officer 10).

The vast literature around risk assessment advises that the environment surrounding intimate partner abuse is complex and not reducible to numeric assessments or shopping lists of risk factors without more detailed investigations of the background to the incident (for example see Laing, 2004, Goodwin, 1994, Fals-Stewart et al., 2003, Strauchler et al., 2004). VSRT sergeants reported carefully assessing each RAST for accuracy and context and to exercise the capacity for professional override that was available to them, reflecting their awareness that the RAST should not be used as a blunt instrument (Winter and Julian, 2005).

Well I've gone to an incident where the partner held a meat cleaver to her neck and actually barricaded himself in the house but the risk score was 19 or

something like that, silly. So you can't... the risk score and the events don't always marry up. So then you need to use the professional override (Police Officer 10).

Officers reported a keen awareness that their scoring was being monitored and that other people were affected by their ability to reflect the accuracy of the situation.

The danger is that if you go through that form and you omit something or change something or say no when it should be a yes, and something happens down the track, you end up with egg on your face (Police Officer 8)

During the observation phase of the fieldwork, I encountered a situation where the attending officers at a suburban station had advised the local VSRT of the RAST score for a particular victim (Clarissa in Vignette 3) but there was considerable delay in sending through a copy of the RAST form so that they could see which risk factors made up the total score. The offender was still at large and VSRT officers expressed frustration at the low priority given to sending through information which would enable them to assist the victim without the additional stressors of being re-interviewed around the history of

Annabel is a professional woman in her early 40s, has been separated from her husband for a few months. She is seven years older than he and has two teenage children from a previous relationship. She contacted VSRT because she wants a PFVO put in place. Her ex-husband has broken into the house and raped her and is constantly harassing her by phone and text and using the children to pass innocent seeming messages which are quite loaded from her perspective. She had been coping with his increasing violence for seven years, often fleeing the house with her children and spending a few days in a motel. Her RAST was 22. VSRT very meticulous in taking statement, but had difficulty processing the PFVO via the FVMS because there had not been an incident where police had been called to the house. Offender very angry when PFVO served.

Vignette 2 Annabel

The Impact of Discourse on a Coordinated Response to Intimate Partner Violence

violence in the relationship. It took almost a week for this paperwork to be faxed through to the VSRT.

4.3 THE INFORMATION MANAGEMENT SYSTEM

Tasmania Police developed the Family Violence Management System (FVMS) to capture operational data arising from family violence incidents reported to, and attended by, police. The FVMS replaced the Domestic Violence Incident Report (DVIR) System on 31 May 2005. The DVIR contained information relating to family violence incidents, family disputes and non-intimate partner matters. There was limited read-only access to members of the Domestic Violence Crisis Services (which became the Family Violence Counselling and Support Service in March 2005).

The FVMS has the capacity for:

- recording information regarding family violence incidents;
- recording the outcomes of Risk Assessment Screening Tool (RAST);
- recording information regarding issues of risk and safety;
- electronic completion of Police Family Violence Orders;
- electronic completion of an application for a Family Violence Order;
- electronic completion of an application for a Restraint Order (for matters of non-family violence requiring more immediate police intervention); and
- both police and other key stakeholders with authorised access with the ability to record notes subsequent to the incident.

The implementation of the FVMS system enabled members to record both matters of family violence and family disputes (where no family violence

offence is disclosed and there are no obvious risk and safety issues) for appropriate intervention and response by both Police and other *Safe at Home* service providers. Details of all relevant parties are entered i.e. victim, offender, police, witnesses and children. The FVMS enables orders to be lodged electronically. Officers generally found the system to be workable, particularly in comparison to the system that was replaced by the FVMS.

Even with the early glitches and bugs I found the FVMS a lot easier to use than the DVIR system. Not only that but you can record the information better and more quickly (Police Officer 9).

FVMS reports are reviewed on a daily basis by District VSRT Sergeants. Tasmania Police claim this allows for a more ‘case’ focussed rather than ‘incident’ focussed response to address issues of risk and safety for persons affected by family violence. However, the system was still based around incidents. Officers expressed a level of consternation about the number of databases which they needed to access for a full picture of the family violence situation and other criminal history of the couple¹⁰. For a couple with multiple incidents, the FVMS user has to open the file relating to each separate incident for example to see what the RAST score has been in

¹⁰ A fully integrated database was still in development at the time of the interviews.

previous incidents and make an assessment about whether the situation is escalating.

Domestics take a long time. That's the problem. The problem with that is it's not the situation; it's the way we do things. I mean if I was in IT and I knew about our problems here, you know, you've just got no integration with all our systems. So like, I know why it is, you've got one systems for one thing and you've got to put all the information in for that, then another system you have to put information into that, and another system over here you've gotta put information into. And there's four or five systems in the computer that you've gotta put information into, the same information, and there's no reason why all those couldn't be integrated into one thing, where you put the information in once and it spreads out into.... [the worst is] the offence report system, because if an offence has been committed you need to put in an offence report. It's still all bloody ancient, this sort of thing. [With the FVMS to find out the trend for repeat offences] you have to physically go in and look at each one and write it on a piece of paper, it's frustrating, definitely (Police Officer 2).

Their training has also stressed that the safety of the victim is the first priority and notification of child victims takes priority over other administrative duties when submitting reports on an incident. The officers were keen for further automation and streamlining of their information systems as pointed out by the following comment:

I think one of the things that should be done first of all is a. that the child and family services part of it should be an automatic transfer; we shouldn't have to type that in. Just say 'there were children here' tick. And it should automatically generate its own report. The other thing that they should look at is if me and you are having domestics all the time, and what we do is each

time we go back to the one, where it's all there and we just add the next incident and the next set of issues and the next set of actions without generating a new one for every single time we go there (Police Officer 6).

One of the problems I have with the FVMS is that in the alcohol and drug sections doesn't give you any space to elaborate on the nature of the issues or the severity (Police Officer 14)

Because of significant variation in the way the reports were written up, it was recommended police officers entered the information about the incident under the following headings:

- Relationship History (the nature of the relationship, how long married/living together, any children, joint assets, local reputation etc.);
- Previous History (reported and unreported, any existing FVOs, PFVOs, ROs, Family Court Orders);
- Current incident (Details of this incident, effect on victim, effect on children (if any – present or not), any other relevant facts); and
- Police Action

In practice each District has developed its own preferred style for completing these reports.

At the beginning of the implementation of the coordinated family violence policy it was recommended that first response officers look up the FVMS before attending an incident:

- to see what the history is at that address (to see what they are walking into);
- to check what orders might already be in place; and
- to check on any RASTs that have previously been done.

During my fieldwork, it appeared that the practical implementation of this directive to ensure the most expeditious response to report of an incident meant that the radio room would look up the FVMS and relay the relevant information to the attending officers en route to the address of the reported incident.

Fundamental to the *Safe at Home* initiative is the exchange of core data and information between the key agencies. Once validated by a Supervisor, FVMS information reports are made available for access by selected Department of Justice (DoJ) and Department of Health and Human Services (DHHS) personnel to assist with the integrated approach to *Safe at Home* activities and services. For some officers, the fact that other agencies could see their reports was cause for some consternation:

They [police officers] know the powers, they know the legislation, they know what they've got to do, and if they do the wrong thing, it's in good faith that they've done it, and there's the wonderful tool of unconditionally releasing somebody for family violence at worst, issuing a Police Family Violence Order if they can't work it out. Or unconditionally releasing them and put it down as a family dispute. Then at least there's a record of the action that they've taken and they've been able to justify why they've done it. And you've got to justify that on the reports because it's not only the police that review it, its everyone that's associated with family violence has access and can review all the family violence systems, and it does come under scrutiny quite a bit, quite a bit from all the other agencies (Police Officer 4).

Clarissa (late 20s) has been severely assaulted and her partner is still at large. RAST is 32 (high risk). She has three young children. VSRT attended to complete her safety plan. She seems determined to end the relationship, having made definite plans for the immediate future including vacating the rental property and her mother and brother were staying with her until her partner is apprehended.

Vignette 3 Clarissa

4.4 RESOURCES

Related to doing risk assessments and associated paperwork, electronic input required lodging an incident report, child witness notifications getting an officer of sergeant level or above to validate each report means that it is taking 4-6 hours to process a family violence incident. At the time of interviews officers reported there was no money left in the *Safe at Home* budget for overtime, and any overtime required to process a family violence incident had to be sourced from the District budget.

The amount of work, for example, that the police have to do in relation to it. If you get a domestic when you start your shift, you can pretty much write the rest of your shift off. And probably go into overtime at the end of it as well, in just simply dealing with a domestic, which is mostly the paperwork involved in putting together the court file which has to be done there and then, all the reports that we have to do on different systems, etc. etc. and it just seems to take forever (Police Officer 5).

Putting the stuff on the FVMS is not too bad but then you get it almost completed and you have to find a supervisor to validate it. I find that a bit onerous sometimes because at times you might find one sergeant working in the whole of southern Tasmania. And he's out on a job, so you can't proceed to do your family violence order, until he's finished his job and come back and validated it (Police Officer 8).

In smaller police stations it is often the case that the whole shift is taken up with a family violence incident.

[Safe at Home is] more demanding on police. Having worked in stations that have limited resources, probably the most amounts of domestics that we've had on the go is three, and there's been two of us left to deal with it. One time, we had a victim at the station and then another victim came in to report, and there was another report of an ongoing one. So there's three, three that we had to deal with and all the offenders had to be arrested, based on the pro arrest policy so it was very demanding. And that leaves the other core roles left in the lurch with minimum staffing. Even here at [larger station], it's the same; minimum staffing levels impact on outcomes (Police Officer 4).

One officer made a comment that the time constraints affected the level of detail that they could report on.

There's a lot of minor sort of things that you may just let go, and leave off the report because of the time. (Police Officer 2)

During fieldwork with VSRT I was conscious also of a degree of tension around resourcing of VSRT, one of the teams was short staffed and without the prospect of full staffing in the near future, which meant that some shifts were manned by a single officer. A number of officers commented that VSRT were only available until midnight and some operational police remarked that this was not really fair. But VSRT also do first response during the hours that they are operational

In VSRT we still do first response sometimes, depends, if we are on early night shift or afternoon shift we go. Well, in the end you're relying on other people to do the right thing, relying on information got by other police to do your job. So we pick up offenders here a fair bit, we put a fair few through the book, as we call it. So, if we don't have the right info, like phone numbers, contact details, then it makes our life a bit harder. First response, yeah, you deal with the initial aspect of the incident, from the VSRT aspect you are picking up the pieces, dealing with the victim, but also dealing with the offender, the history and risks (Police Officer 1).

Tasmania Police management are faced with the higher costs associated with rostering on VSRT staff during traditionally heavy periods of family violence (in the hours up to and after midnight) as well as full complements of VSRT for day shifts to perform their victim support roles as well as participation in case coordination groups. However, resources expended in responding to family violence were often in excess of what was warranted. At one stage I was in the VSRT vehicle returning to the office when an incident was reported over the radio and within a few minutes there were five police vehicles in attendance – at an incident which turned out to be classified as a family argument (*field notes 17/5/07*). While this could easily have been a more serious incident, and in one sense points to family violence being treated as a very serious matter, police resourcing could have occurred in a more efficient manner.

In some of the other interviews it seems that the modern information-led policing was challenging for some officers.

With computers, I find it just so difficult to read Acts and Regulations on the computer. You don't know what changes have been made, but that's the start of it. The other thing is that there's so many changes, since the Safe at Home came in, well some of it is state-wide changes and others it's just local changes, like division or district-wide changes to procedures, and there's just so many instructions coming out and they're also in all different places. Some of them might come out in a notice; others a note in the order book, others might come out in the Police Gazette, others amended in the manual. Others you might get an email or perhaps a notice on the noticeboard – do this, don't do that. I find that there's just so much information about changes and different procedures that you can get lost. So when I do get a domestic I've just got no idea whether something's changed, whether I'm doing the right thing. Plus we've got so much to do as well (Police Officer 8).

While Tasmania's population is not large by comparison with other States, it has the most widely dispersed population of Australian states. Tasmania has the most regional and dispersed population of any state in Australia, with almost 60 per cent of the population living outside the capital city (Stronger Communities Taskforce, 2008). Not all areas have the same level of resources and services available to police when trying to secure the safety of a victim. In more isolated areas a relatively straightforward task like getting locks changed as part of the victim's safety plan became problematic because of the lack of local tradespeople. One sergeant commented that the prohibitive cost of sending a locksmith from the nearest town would have a deleterious impact on the budget available for safety upgrades for the month.

Shelter places in Tasmania are scarce and perhaps, depending on the community, not available at all.

There's a problem in country areas, like [regional town] there's no emergency accommodation, except for pubs. Which are well known as the only accommodation and therefore not really secure (Police Officer 14).

Officers also mentioned that some of the other agencies associated with *Safe at Home* were operating at less than optimum levels due to insufficient resourcing.

Katie is 19 with an eleven month old infant, she lives in a tiny shack in an isolated area, does not drive. The offender, who is twenty five years older, as well as assaulting her, has broken down the only door to the premises and cut the telephone line. Police have relocated her to alternative accommodation for a few nights in the city area but she now wants to return home. In the meantime partner has been bailed and has returned to stay in a caravan at his parent's property, next door to the shack. VSRT convince her to take up a room in a shelter that has come available. She told me that she had run away from home at age nine because of family violence and she didn't want her baby to grow up witnessing violence. She has not attended school since the age of nine and has no contact with her family of origin. Two days later she has left the shelter and returned to her home. VSRT remain in regular contact during the remainder of my observation period.

Vignette 4 Katie

I don't think Child and Family Services (CFS) are resourced enough, I mean we've got to put in a referral to CFS and for whatever reason they come back

to us for further investigation¹¹. And a lot of times I've spoken to people or told people that I need to refer the matter to CFS, and if I've gone back and talked to them later, I ask if they have heard from CFS and very few have. And there's been some cases where I have considered that CFS should at least talk to someone, to make an assessment, at least make a couple of inquiries and they haven't. It's disappointing. I can only assume that since Safe at Home they've got so many notifications coming in (Police Officer 8).

Other officers made the comment that the shortfall in resources at CFS impacted on the expectations of the public (and other services) were that police would take on this additional responsibility. A number of general duties officers expressed the view that the police were shouldering the major responsibility for dealing with intimate partner violence under *Safe at Home*, demonstrating low levels of understanding of the other agencies involvement; for example:

The responsibility has fairly and squarely been given to the police in relation to this, and I suppose it's been left to us to fix the problem. Where I think, you know, counselling or some other form of intervention by some other agency might assist, instead of just 'well that's a police problem, leave it all to the police' (Police Officer 5).

Also there was some criticism of the services provided by the DoJ, in particular the Court Support and Liaison Service. The role of the Court Support and

¹¹ Police are not required to investigate matters referred to CFS. The investigation of matters relating to child safety is the responsibility of CFS.

Liaison Service under Safe at Home is to conduct court tours for victims, assist with applications to vary orders and assist special witness applications. They also attempt to get uncooperative witnesses to Court. A number of officers mentioned frustration with the role of CSLS for example:

They just go to court, sit in the court and explain the legal process. They don't go to the victim, to their homes. They might see them if they come into them. They contact by telephone. They don't have any role apart from being there as a presence and explaining anything that the victim doesn't understand (Police Officer 17).

The implication from these officers is that victims need more intensive support from the Court Support Service, which might include more of a case management role rather than the current educative role. Resourcing of the Family Violence Counselling Service was also raised by police officers. The ramifications of these services being less than fully resourced in terms of staffing and funding are that adult and child victims do not receive the level of support intended by the Act and the Safe at Home policy framework.

And family violence (counselling) are under resourced. They have not been full strength since I have been here. They have part time workers which is ok but because they are not full strength, it makes it hard (Police Officer 14).

4.5 POLICE FAMILY VIOLENCE ORDERS

One of the new tools available to police under the *Family Violence Act 2004* was to be able to issue Police Family Violence Orders (PFVO) for low and

medium risk cases. Many jurisdictions have developed the ability for law enforcement officers to issue police family violence intervention orders (PFVO) based on the realisation that victims can be unwilling to take out orders on their own behalf for a variety of reasons, including fear of retaliation.

In Victoria, Western Australia (WA), South Australia (SA), Tasmania and the Northern Territory (NT), police can issue protection orders or 'police safety notices' to persons who have used family violence. When police issue such notices they may generally attach certain conditions to the order, including conditions that exclude someone from his or her home. The duration of police-issued protection orders varies significantly across jurisdictions. In WA, police-issued protection orders can either last for 24 hours (without the consent of the victim, parent, guardian, or child welfare officer, as relevant), or for 72 hours (with consent). The duration of a police-issued protection order cannot be extended or renewed and another police order cannot be made in relation to the same facts. In Tasmania, such orders may last for 12 months, unless revoked, varied or extended sooner. These police family violence orders augment the historic remedy of civil protection orders, and contain specific conditions designed to protect victims on the release of the offender. Any weapons or firearms are required to be surrendered.

The PFVO may have conditions attached to it including:

- refrain from harassing, threatening, verbally abusing or assaulting an affected person or child;
- not approach or contact an affected person or child;
- requiring a person to vacate any premises; and

not enter any premises: A police officer of the rank of inspector or above may vary a PFVO where:

- the affected person and the person against whom it is made consent to the variation; and
- the variation will not adversely affect the safety and interests of the affected person or any affected child.

At the time this research was undertaken PFVOs augmented the system of Family Violence Orders (FVO) issued by a Court.¹² Police may make an application for an FVO where they have identified a high risk of further family violence following a family violence incident as indicated by a high RAST score. An FVO remains in force for the period specified in the order (compared to a PFVO which is valid for twelve months only). The court must approve any variation, extension or revocation of an FVO. For each financial year since 2005/06, PVFOs have comprised at least 60 per cent of all new orders, meaning that police now issue the majority of all new orders (Success Works, 2009).

¹² Tasmania Police advised in 2011 that PFVOs are issued in cases where the risk assessment is high but officers also have the option to apply to a magistrate for an FVO.

Based on the feedback from the officers interviewed for this research there appeared to be a large variation in the practice around making the conditions on PFVOs. In the early days of *Safe at Home*, it was reported that many officers were imposing full non-contact orders on all PFVOs issued, which was seen as rather heavy handed by police management, particularly if there were children involved. Often children were named on the order to not have contact with the offender. Officers commented that they would put the strongest conditions on the order to also cover themselves in the event of a further serious incident.

*Researcher – PFVO's and the conditions on them, what do you do tend to do?
I am hearing a bit of variation on how people use them.*

Police Officer – we usually with PFVOs, more minor sort of incidents, even with an assault, it could be a minor assault so you still give a PFVO, we usually put the whole conditions on. And then it's for them to sort ...

Researcher – the whole? Full non-contact?

Police Officer – full non-contact, everything. Because it covers us.

Researcher – do you put the kids on too?

Police Officer – oh yeah usually. But if it's, depends on the case, not always, if there has been an assault, and it's only if the female doesn't want to see the male again. But a lot don't want it. If they're going to reconcile their relationship and she's being a pain in the ass, and doesn't want to report it but you still think there is grounds for an order, that's when you just put the don't stalk, harass, assault and that sort of thing. I think they're handy for that, and it sort of covers you as well.

A recent serious incident (which became a charge of attempted murder) was discussed by some officers as a justification for full non-contact orders.

The lady that was shot last week was allowing him to breach the order. And that message is not getting through; he's getting mixed messages, that when we get involved there has to be a point where there is no contact. And the orders are only as good as the victim allows them to be (Police Officer 7).

Rita is in her late 40s, separated from her husband. Initially she left the marital home but then he moved out and she moved back in. However he works from another building on the property and the PFVO allowed him to be on the premises for the purpose of running his business. He engaged a private investigator and then accused her of having a boyfriend. She accused him of breaching the PFVO by stalking her. During the course of a few days I accompanied VSRT on visits to both parties at their respective residences. He maintained it was not illegal for him to engage a private investigator.

Vignette 5 Rita

One sergeant commented about the lack of understanding by both police officers and the general public about the implications of the conditions, in particular where no contact has been stipulated.

Section 4 is the one that we have the most problems with and the one that we get the most breaches of. 'Not to approach except for the purposes of a..b..c.' And you are dealing with people, and police officers don't understand it, much less some of the people we are dealing with, particularly the ones from the lower socioeconomic groups don't understand it. (Police Officer 15).

Variations to orders also take up a lot of police time. At the time the research was undertaken (almost three years into the coordinated response) some officers were questioning the merits of changing the system around PFVOs to better fit the needs of couples who wanted to reconcile.

Sally is 19 and has a 14 month old baby. VSRT are visiting to check on her and to find out if the offender has been in touch as he needs to be served with the family violence order. She answers the door with a blackened eye, holding a chubby but ill-looking child on her hip. the baby has had a stint in foster care because of safety issues as her father has a history of breaching family violence orders. He is a drug user and police suspect Sally is too. She says during the visit 'I love him but I need him to get his act together'.

Vignette 6 Sally

I think they are good but I think we should have the ability to – there's an instruction they are to be in effect for 12 months - you turn up and she wants nothing to do with him – out the door – so you put an order in place – three days later she calls up and she wants him back so you have more paper work, putting in a variation. Whether we have the ability to issue one for a month. Victoria has one for 72 hours and then it goes to the court. But don't know if 72 hours is enough... if she didn't want anything to do with him, then having nothing to do with him for a month. Then review and either put in something else for the full 12 months or a keep the peace if they want to get back together (Police Officer 13).

We allow phone contact especially if kids are involved. And that contact is then covered by not threaten abuse or harass... so we've tried to manage it in that way. And we've got less variations in managing it that way. But we probably average a couple a week (Police Officer 14).

The contemporary debate around protection orders includes the arguments (similar to mandatory arrest) that they only deter a proportion of offenders and may in fact increase the risk of homicide in some cases. Police officers also questioned their effectiveness.

It's not going to stop anyone doing anything, it's just gives us more power to act. That's all it is. I can't argue with that, it is a piece of paper (Police Officer 10).

I mean the reason this was brought was because people were being killed, a piece of paper isn't going to stop someone from being killed. But it helps the lower level sort of violence, that sort of thing. Because a lot of family violence offenders aren't bad crooks. And they actually respect what's been put in place.(Police Officer 2)

It's a nice shortcut tool, I think, now that we're getting the hang of it. Rather than the old way of trying to go through the courts and making applications – that was all quite labour intensive, so it was more often than not, probably in the past, dodged rather than completed. PFVOs have their uses. I mean at the end of the day, the way I look at it, a piece of paper isn't going to save someone's life. If a bloke's a killer – you can't put the piece of paper there and save her life. I mean we identify them and they just keep going back and back and back. I mean the ladies at the shelter, they'll tell you, they come in, they go out, go back, they come in, they go out (Police Officer 12).

An order is not a force field (Field notes 16/5/07)

Breaches of orders were also raised by the police officers at interview. The *Family Violence Act 2004* states that if a person does not comply with the conditions imposed by the PFVO or FVO (imposed by the Court), they can be arrested and charged for the breach. Serious penalties can apply such as

imprisonment for up to 12 months and a fine up to \$2,000, depending on the seriousness of the breach. Of great concern to me was a culture among the general uniform officers that breaches by offenders fell into two groups – intentional and 'technical breaches'. Intentional breaches were physical attempts to harm intimidate or harass victims. However, what they were terming 'technical breaches' were often text messages, messages left on answering machines and so on. The fact that they did not take these breaches seriously showed a lack of understanding of the research findings around stalking and intimidating behaviour as a precursor to serious violence (Anderson and Accomando, 1999, Burgess et al., 1997, Burgess et al., 2001, Dennison, 2007, Freudenburg and Pastor, 1992, Palarea et al., 1999, Rosenfeld, 2004, Rosenfeld and Lewis, 2005, Schwartz and DeKeseredy, 2008). These discourses around technical breaches - while seemingly innocuous – also work towards a culture of doubting the severity of the victim's level of fear. Police officers usually noted the breaches and investigated, victim advocates reported a perceptible attitude of wasting police time¹³.

If the person protected by the FVO or PFVO consents to a breach (for example they allow the other person to have contact with them when a FVO

¹³ See sections on the experiences of clients of the legal profession and victim advocates around police responses to breaches.

or PFVO prohibits this), that other person can still be arrested and charged for the breach.

[Victims can sabotage by] instigation of breaches mainly. It's not so much they want the person to be gone, they want the violence to stop and may not be happy for the person to be gone. They're happy for us to go there at the time, and stop the violence. But when it comes to arresting someone, they want us to stop the violence but don't want the person to go away, but once we do that, and slap an order on them, but you can't just have part of it (Police Officer 9).

The person protected by the FVO or PFVO can also be charged with aiding and abetting the breach. Often an officer will come across a mutual breach of an order in the course of their other duties.

A lot of the breaches, well we probably only hear about half the breaches that happen. Couples resolve the situations and then obviously we're then put in a predicament where if we have to attend the address for any particular reason, and we see him there and we know he's in breach of that order, by law, we're obliged to arrest him even though there's been no dramas in relation to it so it puts us in a predicament. 'Cos generally the people that we deal with, it's not just a domestic related incident, it's other issues that crop up. Such as, it might be serving a traffic summons, there might be a report of their children may have been involved in an incident that needs investigating and with both parties there, it does put us in a bit of predicament. The general consensus from what I believe is if there's no real complaint, the matter probably won't be prosecuted anyway if the victim doesn't want to make a complaint (Police Officer 4).

Well we only know of a breach if it's reported. If it's not reported to us, we don't know. So the orders are only as good as what people's intentions are.

And what we normally find is that she's been allowing the breach to occur for some time and there's an incident and were called. And I know it's unfortunate but we've started charging. And people say we're re-victimising, but it's not that... we're not there to be used and then it's 'well I didn't want the order'.... But usually they want the order to start off with and then change their mind. It's taking responsibility for your own actions (Police Officer 14).

Lastly, a number of police officers mentioned they were unsure of the relationship between PFVOs, FVOs and Family Court Orders. This is an issue that needs to be addressed with further training and accessible reference materials.

4.6 DISCRETION

Police decision making at the street level is dynamic, complex and contingent. Discretion is regarded as an important component of police work. Marenin notes that there is little training about standards for making judgements and exercising discretion. In the field, officers fall back on personal standards, police cultural norms or bias as a guide to judgements (Marenin, 2004). In terms of the training that had been provided to Tasmania Police, all officers were very clear of their powers under the Act. The longer serving officers were vocal about the reduction in the amount of discretion at their disposal under the new system, having their decisions proscribed by the policy and legislation did not sit well; some felt they were being treated as though they were stupid or unable to make ethical decisions.

It sort of takes away from us any discretion. Like, being in [location] a lot of people just make stuff up, just in order to get rid of their partners for the night or whatever. Do you know what I mean? Well we can obviously tell when someone's telling a furphy, so it sort of takes that discretion away, whereas we still have, even though we may not believe what they're telling us, we still have to proceed with it and probably lock the other party up on this person's say-so, when we pretty much know it's a load of bull. So it takes our discretion away and in a way it makes us feel stupid. I mean we're not stupid, we know when someone's telling us a lie or not and when someone's just making something up to get rid of their partner, and get him out of the house for the night because they've had a bit of a barney, or they've had an argument and she doesn't like what he's said or whatever. An argument is a different thing, I mean everyone has arguments and an argument is a whole different thing to violence (Police Officer 3).

When it comes to domestics we don't [have any discretion], we have none, and we basically have to lock somebody up, that's the general feeling, it's covering your own back. And if you don't you leave yourself open to criticism. (Police Officer 5)

I'd like the option to sometimes make the decisions based on what I know or what I think I know and not based on purely jumping because the legislation or the police department says so (Police Officer 6)

Another officer acknowledged the 'one size fits all' criticism made of *Safe at Home* but reported that there was enough room for discretionary practice.

I mean one size fits all but it's how we fit it and how we handle it and where we go with it. I mean if we decide, for instance, that it's merely a family argument that's as far as it goes. So if we decide that, that's where it stays. If we can justify it, it stays there. But if we decide, no let's put an order in place, then it will come down to a police Family Violence Order... now that, in itself, if

it's a lower end of the scale order, and lets use the lower scale, just simply keep the peace, don't threaten or assault, end of argument. Now that in itself is an order that anybody can live by. If you breach it, then we go to court, it becomes a police matter. It becomes a Family Violence Order [magistrate, yes]. So then we've allowed the lateral movement, it's up to the individual whether they breach it or not (Police Officer 10).

There was a tendency for other officers to want discretion in what they saw as one-off incidents of violence.

There was no history. It was a one off situation we should be able to make a discretionary decision. I mean still report it but you shouldn't have to do it every time. Not that we do it every time (Police Officer 6).

This was a long serving officer who purportedly had a lot of experience in dealing with 'domestics'; his suggestion that he is sometimes not reporting incidents is cause for concern. The literature around intimate partner violence suggests at least six and perhaps up to twenty incidents are likely to have occurred before police are involved (Millbank, 2000).

4.7 VICTIMS

One police officer described the social structure as comprising three tiers.

The first tier was the lower socioeconomic group which was described as having a strong culture of calling on the police to solve their problems. I saw a lot of evidence of this while on fieldwork with the VSRT; the officers were constantly being called by victims and their family members to provide advice or comment on current circumstances. The officer commented that this tier

did not need policing as much as they needed relationship and parenting skills. The second tier corresponded with the mid-level of the socioeconomic scale, who called the police when crises arose around the time of separation (the officer stressed that it was this level that *Safe at Home* was notably working best for). The third tier was the higher socio-economic group who contacted police around property issues at the time of separation. The officer also commented that these higher SES couples were more likely to be staying in bad relationships for property and financial reasons.

Another officer estimated that, across the board, around 20 per cent of the victims he dealt with were grateful for the new family violence interventions provided by Safe at Home. He also commented that he felt the cohort that the coordinated response was working for was generally not known to the police before Safe at Home. These were 'genuine' victims in his perception.

The legislation is good for those who are really suffering, for those really true blue ones (Police Officer 3)

In almost all the interviews there was mention of a proportion of victims who were abusing the system in some way.

You get people that are abusing it as well, because they see that things are going to be done on their word, and um, I'm not for one second saying people are lying to you but a lot of time you can see manipulative sort of women, seeing it as a chance to do over a bloke, or even the other way around, but that's minor (Police Officer 2).

If you attend an incident and the woman, or the husband or the male is alleging the offense, either, they often tell the police what they want to hear. I think just to get the partner away. So you've got both sides, you've got people who don't want to report it and the people who are constantly reporting it, and making things up. Which makes it very hard to sort of have an effective system. But I'm worried about generalising too much. It's only a small percentage of people that do it, but they do know the system, and they know that they'll get a payment from Centrelink, you know, emergency payment and things like that. So, it's often ... it often seems that it's just a tool for people to use to get a bit of money and maybe get their partner out of the house for a while because they've pissed them off. And it might be as simple as they're just annoyed with them. Then they ring us up and make a complaint (Police Officer 10).

Some described situations where victims were using *Safe at Home* to manage the rough patches in their relationships.

Some of the victims actually work the system, and as it progresses on they know that if they want to get their husband or partner evicted or taken away from a residence, they can basically ring the police as soon as they have a minor argument. And they know we are obliged to act and generally we take the word of the complainant. Even though there might not be physical injuries or anything visible, basically we have to take her word for it that she has been either assaulted or verbally abused, and then basically obtain a statement from her that basically binds her into a story. They know if they make up an allegation of assault and they work the RAST score, and obviously with a high RAST score we've gotta put them before the courts and generally over the weekend they'll get remanded until Monday, or Tuesday depending on the workload, and maybe even further because of the way in which the legislation is in the bailing in the family violence system (Police officer 4).

I think there, in the instance where it's a genuine domestic situation, I think the instances of those types of reports will reduce but I have also found that it's now common knowledge amongst the public that if I call the police and tell them that my partner has assaulted me I'm going to have my partner locked up, so that I think there's definitely an increase in false reports coming through. Simply because they know, 'Well, I'll screw you over, I'll ring the cops and tell them you've assaulted me and all of a sudden the cops turn up and he's taken away and I've won'. So I think like I said, I think the incidence of genuine assaults has decreased but accompanied by a definite increase in false reports. Which again, for a false report or a genuine assault, police have to follow the same protocols and do all the paperwork (Police Officer 5).

I mean I'd still say it's still open for a bit of abuse – the woman or the couple use the system. They've got nowhere to live, so she rings up and says he's been abusing me and so they get – she gets an emergency house for a few days and then they abuse the system that way (Police Officer 18).

I've seen situations where the woman had an argument with the offender and wanted to get away for the night. Beefed it up and got given emergency accommodation. 2 o'clock the next day she's back with him. We ended up charging her for a false complaint and recovering the costs of the accommodation (Police Officer 14).

When I asked the officers for some sort of indication about what proportion were manipulating the system to their own ends, answers ranged from ten to fifty per cent! Some of the higher estimates were made by female police officers.

Police officers reported relying on their knowledge of human behaviour and experience as a police officer to ascertain whether victims were genuine:

You know by what they say, they don't change their stories, and they don't come back and add something else on because they know what they said isn't good enough. You know. I suppose it's just being around a long time (Police

Lucy is 18, living with her boyfriend. Police have been called to this address several times in the past few weeks and operational police bring them into the station to issue mutual PFVOs. This latest incident is sparked by an argument about the washing. Lucy is adamant that this is the final straw and she is leaving the relationship. Two days later they are living together again and the orders require variation.

Vignette 7 Lucy

Officer 5, emphasis added).

General duties officers were likely to hold views that family violence is less prevalent in middle and high socioeconomic status households; and therefore felt them to be more genuine.

When you see it in a proper household it's a bit different, like your parents or something, you can think geeze this could happen to your parent's group. But when you see it with the crooks and all that, it isn't, because you just think that's how they are. Economical abuse, when you see where they don't give them money and bash them, treat them like they're their slave and stuff, it's all happy on the outside but on the inside everyone's.... it's a bit of a wakeup call (Police Officer 2).

I've been to a couple which they were the type of people that you never see, and it's not because they're recluses or, they go about their normal business but they don't come to the notice of police. And I've been to domestics where the only people that probably know, well even the close female friends of the victim don't really know. I've been to nice houses with nice people where the

wife says 'He doesn't let me have any money, won't let me out' (Police Officer 5).

Annabel in Vignette 2 is a classic example of a victim of higher socio-economic status and significant social and cultural capital. She was treated with respect and dignity by police. Similarly, Rita, an older woman running a small business, who had delayed reporting, was clearly a victim of complex power and control tactics by her estranged husband. One officer recounted a situation with a friend who was being abused by her husband but would not report to police. This officer had previously commented about couples who called the police constantly for intervention in all their disputes; family and neighbourhood (see Vignettes Lucy, Sharon, Carly as examples of scenarios commonly described by police in this high-reporting group. The officer speculated that there were 'genuine' people suffering serious abuse without reporting.

I think it's more the genuine people that don't [report]. I seriously do. I mean, don't get me wrong, there are genuine ones who do report, but there are serious ones who would not. What has my friend said? She'd rather stay with him and get a beating every now and again than live by herself and worry when he's going to smash all the windows, climb in and kill her. She's never made an official report (Police Officer 3).

Most of the couples who had tendencies to call the police for the 'smallest issues' were younger (such as Lucy in Vignette 7); hence officers were more likely to regard older victims as more 'genuine'.

We've had a 75 year old that we've arrested for assault. Yeah, been going on for a while. And she just got sick of it. Probably the woman's response to this is probably got a lot to do with, in some respects, as to who she spends time with and who she's not with... so she has peer pressure... if you have people around you who are supportive and say 'you don't have to put up with this' then they'll complain... the police will come and they can get something done (Police Officer 6).

On the other hand Sharon (Vignette 8), while falling into the age category that was more likely to be viewed as genuine, is an example of the section of the population with low social and economic capital that have a high reliance on police to solve her problems.

Sharon is in her mid-40s (but looks about 60), an alcoholic, and resident of public housing. There is a long history of violence in the relationship. At most recent incident offender resisted arrest but has now been released on bail and VSRT visited to check on security of unit and to advise that he had been released. Very reliant on police. She doesn't seem to want to (or perhaps is not able to) take responsibility for her own safety.

Vignette 8 Sharon

Other officers were conscious that they needed to perform a rigorous investigation of all the allegations made by victims

Generally you can tell if the victim is genuinely scared. Just by the way they act, some of them are blasé i.e. he's done this to me before, he's done that. But the more serious things, 'do you think he's capable of killing something?' and you can tell by the reaction when you ask that question, 'has he done it before?' and 'what actually has he done?' And sometimes they might go really shy, and say 'yeah well he did this to me 3 or 4 weeks ago and here's a mark

around my neck' but if they're saying he done something before we still have the power to detain them, hold them for investigation for as long as reasonably necessary to conduct our investigation and whether that means we conduct an interstate police check and go a blanket across Australia, check with every police service, whether they've had this prior conviction before, so we can justify to ourselves why we've got him in the cells because at the end of the day if we let him go and he turns around and shoots her, the questions will be asked and it will be 'why didn't you do the interstate police check?' if you can justify it, and that's what it comes down to, you're responsible for your actions and you've got a responsibility to the victim and if he's in jail, he can't hurt the victim. Until such time as he gets bailed or released from the Courts (Police officer 7).

A number of police officers interviewed for this research expressed strong views that those who reconcile with the offender are complicit in the continuation of the abuse. This attitude echoed past policy in dealing with intimate partner violence (focussing on violence against women) which emphasised victims' leaving rather than offering protection by dealing with the man's violence. Women who do not leave were seen as uncooperative or failures by a large proportion of those interviewed for this research.

Even when they have been locked up overnight... they let them back they don't take the opportunity to end the relationship. To make the break (Police Officer 9).

I know it sounds harsh but you can only give them the opportunity to go forward, if they choose to stay or go back to them, there isn't much you can do for them. As we said before, it's only a bit of paper. And we can only act on that bit of paper. If we get the right information. But people will have these orders put in place and the next week go back and keep living with the same

person and that person will say but you've put this on but it's not working, it's not helping, but they're not using it to help themselves, are they? They're just going back into their old ways. I don't think you can say it doesn't help people 'cos it does help them, but how much it helps them is up to them. They've still got to use it to help themselves [Police Officer 10].

In the following excerpt from interview, the police officer contradicts themselves – acknowledging that separation is a risk factor for homicide yet that women know there is risk for continuing violence to occur if they remain in the relationship.

If you look at what it was trying to stop or achieve, which is the murders. They were all women who had just left the relationship, they had fallen through the gap... they weren't women who were still in the relationships, weren't still living with the partner. They weren't the ones that wanted to continue on. Most of them were separated and had left. If she's going to stay there, she's going to allow it to happen, even once he's been convicted if she wants to go back to the relationship which has had a pattern of behaviour for a number of years. I don't see how we are going to prevent it from happening again (Police Officer 13).

There was additional evidence of police holding victims responsible for the violence against them.

I still hold the view that many females bring it on themselves, well if not bring it on but exacerbate it by not stopping, keep harping....And especially when you know, well they know, what the reaction is going to be from the offender. I will tell the partner, not nastily, but 'leave the fella alone' keep out of his way....it's like human nature, needing to have the last word in an argument (Police Officer 8).

or inciting the attack with deliberate provocation.

.....the incident that occurred was a one off thing. She made a statement which would probably cause me to punch MY wife. If my wife said what she said, I would probably punch her too. That's how offensive it was. And your husband would punch you too, unless he was really passive. Well, it wasn't much, but it was just something you SHOULDN'T say... (Police Officer 6, emphasis added).

Again, there is a vast body of literature about women's reactions to the tension build-up during the cycle of violence (for example Lauritsen and Schaum, 2004, Heckert and Gondolf, 2004, Mahoney, 1994, Schwartz and DeKeseredy, 2008). These works discuss some women's need to bring the crisis to a head because of the unbearable tension and waiting for the outburst to occur. These women talk of a need to endure the assault in order to hasten the remorse and peaceful stage of the cycle of violence (Walker, 1984). This is an example of the lack of understanding of victimology that was evident amongst most of the operational police interviewed for this research. Even highly experienced officers continued to operate under the own perceptions about the triggers of intimate partner violence and what constituted normal behaviour.

Hayley lives in a semi-rural area close to Hobart. She is in her late thirties, with three children. The youngest is the child of the offender and is autistic. She has a PFVO in place but is reporting that violence is escalating and wants it converted to an FVO. He has been stalking (including hiding under the house) attempted rape and assaulted her at her place of work. She says he has a fixation that she is having an affair with her manager. Offender was arrested and bailed to his parents' house. She contacted police to upgrade her PFVO to an FVO. During the conversation around the process, it dawned on Hayley that her ex-partner would receive a copy of her statement as part of the procedure. She visibly quailed at the prospect and decided not to go ahead. Later, officers expressed their frustration at her decision but attributed her reluctance to proceed to the likelihood that she had made a spurious allegation.

Vignette 9 Hayley

In the following examples, the officers suggest that the victim may have incited the violence and the *Safe at Home* 'machine' comes into play where the alleged offender can potentially spend time in remand without hard evidence against him. The tone of these responses was that *Safe at Home* gives women tools with which to unleash the power of the state on men, echoing early criticisms of *Safe at Home* made by magistrates that the legislation reversed the onus of proof.

The lady makes a complaint that she's been assaulted by the bloke, she says that he made threats to kill her or whatever, instantly then we are bound to lock that bloke up, even if there is no proof that that happened, he's denying it, all we're doing is her word against his, and on the basis of that, we lock this bloke up, he goes to court, bail is automatically opposed and this guy could spend months in the can for something that is completely unsubstantiated.....

and it could be the fact that she started this argument, and I'm only using this as an example, but she might have started this argument and she's told police that he's threatened to kill her or whatever, when in fact there's nothing to back that up, there's no proof of that at all and on the basis of her saying that this guy could be locked up for months. And that's what I find a bit ridiculous about it to be honest (Police Officer 5).

There are times when I think the woman attacks the man, the man grabs the woman, throws her out of the way and then she screams 'I've been assaulted' and the way it appears to be angled – oh, the basic, you know, the woman makes the complaint, the man gets locked up, basically that's on that level (Police Officer 12).

The following officer makes the point that intimate partner violence is more difficult for police to deal with because results are not seen to be as 'cut and dried' as with burglaries and other criminal matters because victims often have ongoing and often complex relationships with offenders. The outcome of the intervention is often much less certain for officers attending a family violence incident.

The police are very results driven, that's why we're police officers and not social workers – all airy fairy – we like to make decisions, get things done, full stop. Over and done with and on to the next thing. And that's why a lot of police officers don't like dealing with family violence. Because a successful result for them is convicted, relationship ended. Full stop. And we don't know how many times we're intervening that we are going to stop the next assault or the next incident. We get it... they argue, they fight but were not there to manage their fight. At some point the victim has to take responsibility for herself (Police Officer 13).

On the more positive side of police attitude to victims, some officers noted that there was a group of clients that were resistant to police intervention because they did not want a criminal justice intervention. They acknowledged that these victims would talk to counsellors and try and sort their situation out without police intervention (*field notes (15/5/07)*).

One officer alluded to the intergenerational aspect of intimate partner violence and it would likely take a whole generation to change people's patterns of behaviour.

It's better than the old system we used to have – you'd turn up, take the bloke away and say cool down and go back tomorrow – I mean, there are consequences now. I think we're still stuck in the vein of – it'll take a generation to change I think because women that were battered – battered women have daughters that have seen them being battered, so they sort of gravitate towards the same sort of men. And that's what I see anyway. I've got friends whose parents were battered and now she's a battered woman and it just seems to go on and on. And some women don't know any different (Police Officer 18).

I think it's just the way people are brought up in this area, really, being violent, it's just the way you are. It's the area, it rubs off. Trust me, it's just, you just get families, where children are born they're brought up around violence, their parents, and it just continues on, it's like a cycle; it just goes round and round (Police Officer 3).

While many researchers have written about police failure to take victims seriously in the area of intimate partner assault and sexual assault (for example Horrill and Berman, 2004, Lievore, 2003, Taylor, 2004), it was

somewhat overwhelming as to the ubiquitousness of the discourse several years after a radical change of policy which included substantial blocks of training for all uniformed police in Tasmania. The examples provided in this section underscore the difficulties which remain to be overcome for police to develop understanding and respect for victim's choices within a framework of a victim having little or no choice. Police appeared to have limited positive discourses around victims of intimate partner violence available from their policing subculture.

4.8 OFFENDERS

Juxtaposed with the comments of isolated incidents as mentioned in the previous section e.g. 'it's a one-off, we haven't been called to this couple before', there is also a recognition by officers that the offenders who are not known to the police can pose the greatest risk.

We can run all the checks that we can, the firearms licences and so on, if they haven't got any record with police, they are unknown to police, it does, that starts to ring the alarm bells because you don't know what you are walking into. And that's been evident on one of the occasions that I've had dealings with... At least if they have got a criminal record with us, we get a broad breakdown of what prior convictions they have got at least you can prepare yourself. If they have a history of being violent to police, make sure you do all your procedures, make sure the resources are there the support there, and start negotiations (Police Officer 4).

The dangerous ones are the ones you don't know. If I go to one I know is a risk because we've been there before, that's not really a problem, although it's

still dangerous. But you understand the danger and you probably know how to deal with that. It's the ones we come up against that we don't know. Cos you don't know what to expect. I know how to deal with x, gentleman x because I've dealt with him before and I can cope with that, it's the ones I don't know (Police Officer 6).

Police had unsympathetic nicknames for chronic offenders such as 'snoozers', 'bucket-heads', 'losers', 'gorillas' and 'bantam roosters'. Some officers seemed alert to the manipulative and retaliatory tactics that chronic offenders indulge in -

When you interview someone, they deny everything. And there's evidence to suggest that they're lying. A lot of people deny to the point where they believe what they're saying is true, they believe they've done nothing wrong, and then they put it on the female, saying it's her fault. When it obviously isn't her fault. So I suppose manipulation comes into that aspect. They take that home, and when they go home they're angry that they've reported it, even though they've done the wrong thing, it's all their fault (Police Officer 2).

Others explained violent behaviour as relying on 'instinct'... except the 'clever' and 'more calculating ones' -

You can sort of see where they're relying on instinct and it just gets out of hand, but the more calculating ones [are] where they stalk the victim. When I was in Hobart there was a guy who'd been watching his missus – or ex-girlfriend – for days and days and then when she realised she had a friend staying, a male friend but I'm not sure they were sexually involved, he broke into the house, and beat this bloke within an inch of his life, and then beat her and ran out, I think he's been released and he's now interstate (Police Officer 2).

One rural police officer spoke about people moving into isolated areas, deliberately away from services and agencies, in order to keep low profiles. Police were aware that there were offenders who were potentially seriously violent whose victims were unlikely to report any further violence to police.

Yeah we've got people living way up in the bush and we would never, because they if don't say anything no one ever knows until sometime we get a call and something serious has happened. I mean we've got ones we know are risks, we've got one at [location 1] we know is a risk and one at [location 2], we know is a big risk there well they're probably exceptional cases in some respect. Because the one at [location 2] was one she rang up to complain about him and his behaviour. Now, they'd come from the mainland and they had an extensive history. And they thought, I think, that when they came here ... well there were restraint orders against him and against her, and there were heaps of them, there was forty seven pages that we got.... So we went down and as we do with anyone else, there is a history, it's serious enough, a big history where we just FVO'd them, and we locked them up for the breach. I think they thought that when they came here it would be like Victoria, I take a Family Violence Order out today and go to court tomorrow and get it removed, and it didn't work like that. Cos it's still in place, they are allowed to live together but she won't make a complaint again. And we've got another one up the road, but in fact I don't know if they're still there or not but that was pretty much the same. She knows if she complains, he goes. And she knows, if he goes, it will be for some time, and he won't be coming back for a while. And he's dangerous. And he's dangerous to us. Like, down there, he's dangerous to us too but I wouldn't consider him as big a risk [offender at Location 1].. Yes, there's the odd one where that's going to happen and what do you do about that? You can't make the risk go away, and if you do, she'll breach (Police Officer 8, emphasis added).

Officers were aware of the offender rehabilitation program that was part of *Safe at Home*, but general duties were not able to comment about it due to lack of information. One officer, who had some knowledge of the Family Violence Offender Program, was highly critical of the program.

We have a family violence offender program but that doesn't work – no one is capable of doing it. There's so many rules of eligibility that no one can get on it. Up here there has not even been one course (Police Officer 13).

4.9 DRUGS AND ALCOHOL

Police officers reported that alcohol and drugs were very often a major issue in the family violence incidents they were called to attend.

90 per cent of the incidents we currently have on the FVMS would include alcohol or drugs – usually the offender but sometimes both (field notes 17/5/07)¹⁴.

Most of domestic related incidents there is alcohol involved, there usually is. It seems to be the catalyst involved, it sets them off. Usually. I don't know what the percentage would be but you could look at well into the 90 per cents. I would say (Police Officer 11).

Take away alcohol and you'd take away a lot of domestics. Take away a lot of other things as well, accidents (Police Officer 6).

¹⁴ Note that the officer claims 90 per cent; the analysis of risk assessment tools from 2005 on pp shows that only 42 per cent of RASTs included drugs and alcohol as a risk factor.

Some officers held the belief that alcohol loosened inhibitions which then led to a verbally abusive interchange which then led to violence.

When alcohol or drugs are involved... the emotions become involved and it heightens the risk of somebody being injured or assaulted (Police Officer 5).

I've always thought, that alcohol is the biggest trigger, and drugs probably nowadays, it was always alcohol. A high percentage and whether or not it was alcohol triggered an underlying problem or people tell the truth or the truth comes out when they've had some. But there's definitely the question of alcohol (Police Officer 8).

Ultimately it comes down to [self-control] their petty niggling or things that are there and all of a sudden because of the alcohol inducement it brings it to the fore and that starts, and then from then on, it becomes – sheesh, we had one at [location], he hit her with a blockbuster, but that's all right he went to bed, she had a couple more drinks and picked up the blockbuster and went into the bedroom and hit him. Two people who are just not going to get on together. It's very lucky someone wasn't killed. But, the thing is you look at the two of them and then say 'ok, we've got a Family Violence Order in place, but are we going to let them go back into the same house again? (Police Officer 10).

Police reported that the majority of drug users were using cannabis, or a combination of cannabis and speed, which they believed acted as a catalyst for violent behaviour.

I've seen it on a few occasions, not just domestic related but other related where the combination of drugs and cannabis depending on how good quality it is, it can send people crazy as in they go on a really violent rage, smash things up in the house (Police Officer 4).

I think you'll find that long term use of cannabis; it tends to change people's personality. Makes people aggressive (Police Officer 6).

You see a lot of people, who use cannabis a lot, are high cannabis users and they also suffer schizophrenia and that sort of thing, I think that contributes to it. A lot more men than women, especially with that. And also like amphetamines and that sort of thing. You see women on amphetamines, you can tell but it doesn't affect their personality as much, I don't think. The males just turn into different people. I think that they use it more, and they think that they can use it a lot more than what they should, their body should be able to take it, and when they get on the drugs (Police Officer 2).

4.10 THE LEGAL PROCESS

One of the main tenets of *Safe at Home* was that police had the capability to proceed with prosecution of family violence offences where sufficient evidence existed, regardless of whether the victim had withdrawn their statement and wanted charges dropped (Tasmanian Government, 2003).

There are three dynamics at play here which have prevented this part of the policy from full implementation:

- Where the victim will not make a statement
- Where the victim wants to withdraw the statement or simply does not attend the hearing
- Where the Court is resistant to proceeding without a willing complainant

Sometimes police were frustrated when victims would not make statements:

A lot of time the victims won't give stat decs. A guy rang triple O and said they better get around there as he was going to kill his wife. She wasn't there and she didn't want to give us a statement. Here's this man saying he's going

to do this, but we've got no evidence except what he's told the police. That's the court system (Police officer 12).

or withdraw their statements:

You've got a lot of victims who make statements and they've obviously been assaulted, they make statements and complaints which is good, but then they get to court and say 'no, not going ahead'. What can you do? (Police Officer 3)

With the court process a lot of it comes down to the reliability of the victim as well, a lot of the times the victim will go to court and they will withdraw the assault complaint or something like that under oath and therefore they create basically a hole for themselves, they've pulled it once, will they continue to keep doing it? And I've had that on a couple of occasions where family violence has continued to happen and they've continued to go to court and withdraw the complaint of assault. Without a complaint you can't prosecute anyone (Police Officer 4).

a majority of the time, one party won't turn up. So it just won't go ahead. If they do turn up, it goes much like any other court case, it's handled the same. Yes, it's treated just as seriously and it takes up a lot of the Courts time. And to see the complainant not turn up is very annoying as you've put all this work into it and it's not going anywhere (Police Officer 13).

Fear of retaliation is one of the reasons why victims may be reluctant to proceed or provide a statement (Herbert et al., 1991, Anderson et al., 2003).

One officer described a situation (similar to that provided in the sidebar on Hayley earlier in this chapter) where the victim was unwilling to provide the statements required for applications to the court for an FVO because they did not want the perpetrator to receive a copy of the statement. This officer had

attempted to provide a solution by preparing a statement in which the victim's evidence was paraphrased. But this was dismissed as 'hearsay' by the court.

If you make an application for an initial [FVO] or an amended one, part of what goes with the evidence which is what the court would decide on, is the victim's statutory declaration. And a lot of people say 'I don't want him to get a copy of it' but it has to be served on the respondent and there's nothing on it. A lot of times I will put stat decs in my name. But the rules of evidence say you can't have hearsay evidence, you won't get a conviction, all those things the criminal justice system is full of (Police Officer 16).

Police were critical that the Court was not following through with prosecution without victim statements even though this was a component of the *Safe at Home* policy.

The laws in respect of all the police are brought undone by the fact that prosecutors won't seem to charge a person, unless they can bring the person to court to testify. If they won't testify, then you are just wasting your time (Police Officer 11).¹⁵

Some officers went as far to say that this inability to follow through with prosecution had a detrimental effect on victim and community safety.

¹⁵ This officer seems to have a poor understanding of the prosecution role. The Integrated Case Coordination Committee will make a recommendation as to whether the case proceeds or not. However, the tone of the comment reflects frustration and an attitude that family violence incidents are a waste of police time.

If you've got sufficient evidence besides the complainant, if you've got photos, independent witnesses, then there's probably a few that we should run with. These laws are supposed to take away the onus from the victim. But the trouble is the court operates on the basis that you need a willing complainant. And the fact is now all the time 'he/she didn't hit me' when there's enough proof that it has. You can appreciate that it can make our work a lot harder, cos they are letting people back on the streets that should probably be getting six months or two years or whatever. All because the person has been manipulated, or I suppose pressured or whatever.... because you know yourself the hold they have on the victim. They can ring them up and manipulate them.... I'd love the court to take the bull by the horns; we have got sufficient evidence to convict this person without you. Under these laws. But I suppose it's one thing to say it, and another thing to do it (Police Officer 1).

You have the legislation, the policy that says this and you have a court system that doesn't reflect the policy. You have rules of evidence, rules of procedure. Set in stone. An adversarial system that has been developed over years and centuries and that's the thing. And it compromises victim safety. And we can't overcome that (Police Officer 14).

Carly is in her mid-thirties and has a large number of children. The couple have a long history of violence and offender had received a custodial sentence for family violence in the past. She seems determined to end the relationship at this point. Offender has strong sense of entitlement, wrote a 24-page refutation of her statement, and had tried to contact his children through the school while he was in jail. He also told her he had friends 'keeping an eye on her' while he was in prison. Police have installed a security camera to cover her front door. She had called VSRT to report that a bag of fruit had been left on the front steps, seemingly innocuous but to Carly it was a signal that he was watching the premises. Police were in regular contact.

Vignette 10 Carly

4.11 EFFECTIVENESS

About half of the officers interviewed mentioned *Safe at Home* being effective in comparison to the system in place beforehand. They talked about increased awareness of intimate partner violence amongst the general public and that since *Safe at Home* was implemented, it had helped a number of victims to extricate themselves from violent relationships...

Looking where we are now, where we were 10 years ago, while there are some problems being created, there's greater awareness and there's protection out there that wasn't there then, and I think you're finding more and more people using it (Police Officer 11).

Officers also talked about the deterrent effect of arrest and detention...

Maybe having that piece of paper, and being able to arrest someone because of that and putting them in a cell, maybe it gives them a chance to sit down and calm down instead of doing something. But I don't know how it all works, but I can't see that it's a bad thing and would be better than not having it. And like I said, you never know, it's quite possible that we may have saved many lives by putting someone in the cells. And putting them in front of the

court and having them remanded overnight to face the magistrate. For all we know it's quite possible we have stopped quite a few. We'll never know though (Police Officer 9).

A major feeling running through many comments is that while the system is more systematic and police have more tools to work with in dealing with intimate partner violence, there is still a sense that it is difficult to really measure the effect of the intervention.

I suppose it's better now... before we used to... you know, it would only be extreme cases where we would take action. And a lot of it would not be documented unless there was an assault that had taken place, an offence. And now I suppose with the RAST and that all the things that can occur down the track, more minor sort of things are given a lot more importance. And we have to sort of act on those. Which is, I mean it's good, I really do think it's good and don't think we can go back to how it used to be. But, you know (Police Officer 2).

Many officers felt that the only time a victim was really safe was when the offender was locked away.

The only time we can guarantee anyone's absolute safety is if the person that is threatening them is locked away. That's the only time we can be absolutely certain (Police Officer 13).

At the end of the day that's all it would ever be, if somebody is going to do something, then the only way we will stop them is if we keep them in jail. And it has happened where they've made threats on video that when they get out they're going to kill her, then that's noted in the facts and then it's up to the magistrate, then basically. We've done our job, we've got him to court and if the court want to bail him based on what he said, well it's the courts at the

end of the day, if they still think he's a threat, they will remand him in custody and if they think that he's no longer a threat or is showing some remorse, they basically give him the benefit of the doubt and let him go. It's a piece of paper; we can't control anyone's actions. Everyone's responsible for their own actions and if they're going to do it, they're going to do it, there's nothing we can do to stop them unless they're in jail (Police Officer 4).

If somebody has got it in their mind that they really want to hurt that person, then they're going to do it anyway. Whether it be today, two months down the track or whenever (Police Officer 5).

4.12 TRAINING

Police officers attending a domestic violence incident are faced with investigating volatile and emotionally charged confrontations between intimate partners or ex-partners. In all the literature about Tasmania's new approach to family violence, there has been emphasis on the fact that all Tasmania Police officers had received extensive training around the new legislation, attendant police powers and procedures as well as a full briefing on the coordinated response and 20 hours training on the Family Violence Management System (FVMS).

All the VSRT sergeants I spoke to mentioned regularly running training (and refresher training) on family violence issues in their Districts at regular intervals. A number of officers referred to this regular training being available.

Our training is ample. And we get training days, every five weeks and some training days integrate those sessions with the family violence things and if

you're not sure about anything, like the VSRT sergeant is always on hand to call any hour on their mobile, so if worse comes to worst, you can do that. That's handy to have too (Police Officer 2).

However this research did not find that all police officers had been trained to the same level. I was told that one major police station contained a high level of new recruits of whom many did not understand the role of the VSRT (and so the victim was often surprised when contact was made by VSRT). New recruits receive a half day block on family violence within their academy curriculum. Training at the Academy recognises that new recruits are often young and inexperienced. The following quote is from an officer recalling their training around family violence at the Academy being mainly about communication styles:

Well I think in our training, the emphasis was too much on getting police officers to do more caring etc. when they go to jobs but where my belief is they do a reasonable job, the people that they recruit are good enough, intelligent enough and they do have to be compassionate. And most of them wouldn't need to be told, they'd just do it naturally when it's needed. Ours was very much about that. And maybe there were some misconceptions about what police were like at jobs. I can't recall working with anyone who has spoken to a victim in a bad way (Police Officer 9).

Given the complexities of the issues surrounding intimate partner violence that police recruits need to grasp, especially recruits with limited life experience, I would argue that their training is insufficient. One officer interviewed had not had any training on the new family violence approach (in

its third year of operation at the time of interview), whilst several others, when asked to clarify the amount of training provided, reported receiving a two hour block of training. Very few officers in small rural stations reported receiving any training. Of those officers initially invited to serve in the newly introduced VSRT teams, one had been in the VSRT for twelve months before receiving any training on the new approach. The VSRT training I observed in May 2007 was the second week-long course run since the introduction of the legislation in late 2004.

Training needs to give the officers basic conceptual tools to guide them for understanding the complexities of policing intimate partner violence as well as practice in performing the routine tasks associated with domestic violence incidents. Given the variation in practices relating to the RAST as illustrated above, several hours training is required for each officer to grasp:

- the rationale behind the tool as an aid to decision making;
- the findings of past research on each of the risk markers;
- a deeper understanding of victimology; and
- the need for a rigorous and uniform approach to scoring the risk assessment tool.

Without this level of exposure to the history and context of risk assessment, contributing to a deeper understanding of the reasons why the tool exists and its relevance to their work, the benefits of the RAST are depleted.

The training of the VSRT that was observed as part of the fieldwork for the project provided a comprehensive overview of the *Safe at Home* policy and procedure. The course was structured as four days of coursework and a full day of assessment. The main message for participants was that the new approach to family violence meant that the primary concern for all police activity was the safety of adult and child victims. The material was presented in a variety of ways using a combination of lecture type sessions delivered by both police and guest speakers from allied agencies. The lectures were aided by power point presentations and DVDs. There was also a panel discussion with representatives of other agencies in the coordinated response.

Table 12 Victim Safety Response Team Training Course

Focus	Duration	Delivered by
Legislation	1.5 hours	Police
Role of Victim Safety teams	1.25 hours	Police
First Response	2.5 hours	Police
Risk Assessment	1 hour	Police
Cycle of Violence/Incidence in Tasmania	2.5 hours	FVCSS
FVMS (computerised reporting system)	30 min	Police
Safety Audits and Plan	3 hours	Police
Security Upgrades	45 min	Police
Forum	3.5 hours	FVCSS, Legal Aid, Child Protection, Court Support
Interviewing Children	1.5 hours	Police
Response and Referral	30 min	Police
Indigenous Issues	30 min	Aboriginal community
CALD Issues	30 min	Police
Offender Intervention Program	30 min	DoJ

Dealing with the Offender	1 hour	Police
Investigation (Evidence and File Management)	2 hours	Police

My observations were that police powers under the Act and the process of arrest and administrative components received a far greater weight in the training than the development of understanding of violent situations between intimate partners. Furman and Shatz (2002) stress the value of using experiential learning exercises in teaching crisis intervention to law enforcement and social work students. Experiential exercises will help students understand their cognitive, emotional and behavioural responses to crisis as well as developing their professional use of self (as the self is a central tool for crisis work). Suggested tools include empathic listening, role play and use of a reflective journal or 'learning log' (Furman and Schatz, 2002). There was more opportunity to learn via experiential methods in the sessions devoted to the practical components than used in the sections on dealing with victims, which were largely 'chalk and talk'. While the sessions on adult and child victims were very worthwhile, and the course participants were interested in a career in the victim safety team, the opportunity for additional role play or question and answer sessions might have been more powerful ways of absorbing the material. There was an undercurrent of resistance in the police officers towards what they described (muttered) as 'touchy-feely' in

group work and did not value the opportunity to practice the procedures via role play. My observations were also that some participants in the course placed greater credence on material presented by senior officers or specialist police areas compared to presenters from other agencies.

These officers being trained for the work of VSRT received good background information on the literature around intimate partner violence but not all presenters were of equal quality. The session on the offender program was weak, lacking in structure and depth of content. This session might have taken the opportunity to present some of the extensive literature around offender psychology and behaviour (Norlander and Eckhardt, 2005, Tweed and Dutton, 1998, Burgess et al., 2001, Covell et al., 2007, Henning and Holdford, 2006, White and Gondolf, 2000, Cavanagh et al., 2001, Dutton and Haring, 1997, Pollard, 1994) including emphasis on power and control over the victim and behaviour that would indicate that the violence was likely to escalate. This information provided police with some insights into victim coping strategies in the light of this behaviour.

4.13 SUMMARY

The interviews with officers of Tasmania Police revealed that the policing of intimate partner violence under the *Safe at Home* policy provides a number of challenges. Firstly, the risk assessment procedure is not fully accepted, understood or used in accordance with police instruction by a significant

proportion of operational police. There is a degree of resistance to using the *aide memoire*, and admiralty components of the RAST which weaken its reliability as a tool. Similarly, the implementation of PFVOs requires attention as it appears that the conditions on the orders are not universally understood by police. A lack of understanding of the background and intentions of the RAST and PFVO means that police are not able to give consistent advice to victims. The interviews highlighted a strong theme running through police culture that a proportion of victims are abusing the system. Attitudes towards victims tends towards blaming victims who do not behave in ways that enable the intervention to work 'smoothly'; rather than questioning whether the intervention itself is not a good fit to the victims circumstances. Police spoke of dealing with a large cohort of repeat offenders/victims who were known to them for other illegal and criminal behaviour. Alcohol was viewed as the major catalyst for family violence amongst this group, as well as combinations of alcohol and drugs. Police provided details about dissatisfaction with resources under *Safe at Home* including strengths and weaknesses of the computerised information systems. There was also frustration regarding prosecution outcomes, both because of victim attrition and the unlikelihood of prosecutions proceeding without a willing complainant.

The following chapter discusses the impacts of the legislation and *Safe at Home* policy from the perspective of victim advocates.

5 VICTIM ADVOCATE NARRATIVES

The sources of feedback for this chapter are staff from the Family Violence Counselling and Support Service (FVCSS) run through the Department of Health and Human Services (DHHS), and two non-government services specialising in women's crisis support. Prior to *Safe at Home* the DHHS had operated the Domestic Violence Counselling – they were a first response service with little or no involvement with police. Under *Safe at Home*, FVCSS focus was changed; they now work closely with police and provide:

- Information, counselling and support to adult, child and youth who have experienced family violence;
- Information and support to family and friends;
- Therapeutic services, individually and in groups;
- Arranging assistance from the police;
- Assistance in organising a safe place to stay;
- Assistance in accessing limited financial assistance;
- Referrals to Legal Aid and/or Court Support;
- Act as an advocate in accessing assistance, e.g. Housing Tasmania, Centrelink;
- Liaison with Government and non-government sector on behalf of clients; and
- They participate in weekly case coordination with other *Safe at Home* providers.

For victim advocates, *Safe at Home* is seen as less of a coordinated or integrated response than a justice response. The main theme arising from a general discussion around *Safe at Home* was that a heavy-handed uniformly-

delivered police response does not take into account individual needs and circumstances and ultimately the response under *Safe at Home* was simply not what most victims wanted.

Whilst it would be desirable to have domestic violence as a criminal act... there is the other side to it that women don't want the stigma of being attached to having police intervene. In a large population of women it was all about not being seen as a dog, as a dobber, as being responsible for their partner going to jail or whatever, that was a very big thing. Mostly it's about shame and fear, in my experience. And when Safe at Home came in, it appears to only look at the justice side of it all (Counsellors Focus Group).

It seems to me that women, or victims, don't get a lot of choice, they're told 'this is what's going to happen and it's tough if you don't agree with it'. And for me, that's just a negative because we've always operated on safety first for the woman, but she had the power... we talk about empowering women to make decisions about their life, their future, their family, their children and yet that takes it away from them, they have no power. They're completely de-powered in it (Counsellors Focus Group).

The counsellors were critical of a one-size-fits-all policy. Their experience was that victims would not report future incidents to the police.

Whilst there's this continuing thread in what constitutes a victim of dv, they're all individuals, they're all separate, they've got separate histories, separate reasons, lifestyles... you name it. It's different. And you can't just treat the people, give them a label and expect them to conform to a system. And I believe that's where it falls down a bit. The women who call police, I've had a huge majority of women who've said to me 'I'll never call the police again, I'll stay and put up with it' Because they felt disbelieved, they felt it was using a sledgehammer to crack a walnut, that they really didn't want their partner

taken away and an order slapped on them, because not only, if that order is in place does it affect the perpetrator, it also affects her, it affects the children, it affects the lifestyle, creates huge animosity, that breeds more and more anger aimed at the wife for calling the police, wife or partner, whatever.. yes, that's a big factor. A very big factor, in fact one week, I remember I had about five separate women who'd rung, and these were very middle class women who said 'my whole family has been affected now, we've got loss of income, I didn't want it to go this far...' (Counsellors Focus Group).

The counsellors were critical that *Safe at Home* had appropriated the FVCSS free call telephone number for the 24 hour family violence response line. One counsellor regarded it as forced reporting.

We were going to be dealing with just the hardnosed end of those that had a high RAST to the extent that the phone number, and I'm not sure if you're aware, but it's pertinent, the phone number that we had for, how many? 15 years? Our 1800 number, was actually taken from us and handed to the police, and we had to fight very hard to get an alternative number, the logic being that they wanted to force victims through one portal. And so that, I suppose is a very heavy handed way of getting victims to report their family violence experience (Counsellors Focus Group).

5.1 SAFE AT HOME RESOURCES FOR VICTIMS

One main theme in this suite of interviews was that there was insufficient information for victims about what was involved in the new response to family violence in Tasmania. The advocates criticised the materials as not very useful, accessible and not written in plain language.

But I don't know that there is a lot of that you know, or what there is not very tailored (Women's Crisis Service).

Safe at Home has produced worksheets; I don't know if you've seen those, I don't find them particularly useful (Counsellors Focus Group).

There are a number of fact sheets available on the DoJ website, which assumes access to the Internet. Some advocates commented that the material needed to be phrased very simply due to the stress that the victim is under around the time of a violent incident.

And what information there is comes at a time when she's so stressed, none of it is absorbed (Counsellors Focus Group).

The counsellors reported that victims were confused at the plethora of services they were required to engage with under *Safe at Home*.

I guess I'm having conversations now with women about just how much harder things have got, if they make the decision to leave, and they've had this police intervention and I have a lot of conversations with women about that, how hard it is, and one of the things that is confusing for women is the incredible range of services that they need to engage with to get the response that they need. They're dealing with VSRT, family violence counselling, maybe court support and there's a lot of confusion... (Counsellors Focus Group).

While they applauded the introduction of the integrated case management committee in general, some were critical that the level of case coordination did not extend to working closely with the victim to navigate the system.

We've got this integrated case coord committee... which is good... but with some cases, particularly those that are quite complex, nobody really case coords them, like actually goes alongside that woman navigating that whole system (Counsellors Focus Group).

[As well as Safe at Home you have] Family relationship centres, and lots of different people with their finger in the pie but no kind of coordination of that response (Women's Crisis Service).

The FVCSS reported that they continued to work with a victim as long as they wanted to remain engaged. Initial counselling might focus on the violent incident but often subsequent engagement would encompass issues that have arisen as a result of reporting of the incident.

Yes, as long as the woman wants to be engaged, we would continue to engage with them. And it may be that ideally we would try to contact the victim as soon as possible after the incident, but sometimes that can be a couple of days later, if we've tried and haven't been able to... we have three goes. So that can be a good time, they've done their bit with the police and then we will go on to have some sort of engagement, it may only be over the telephone, it might be face to face...And maybe when our call comes in a few days later.... they actually have a whole gamut of issues that have arisen outside that immediate crisis (Counsellors Focus Group).

5.2 POLICE

Victim advocates commented that operational police generally do a good job but some individual officers displayed entrenched ideas that impacted negatively on victim's trust in the system.

Police generally do a good job but some are resistant to the idea that victims are not responsible [for the violence]. Sometimes police have done things like refused to lift a PFVO (Shelter worker).

For example a worker in an NGO recounted the experience of a client who had been instructed by police to leave her husband -

In one family that I've been working with, the victim said that she got no assistance from the new Safe at Home program at all. That all she was told was to leave her husband, that was hammered in to her.... But, telling somebody what they should be doing is not allowing them freedom to work through the issues and make the decision themselves and you know, in a way, it's sort of a very minor replication of the relationship with the abuser (Women's Crisis Service).

The specialist VSRT were regarded as professional and well informed about victim needs and behaviours.

VSRT do a great job. We work with VSRTs all round the state and have housed victims from interstate through Federal Police. Even when VSRT are privately frustrated by a client's behaviour or attitude they still deal very professionally with her. VSRT definitely look at the history of abuse and the long term interests of the victim (Shelter Worker).

The counsellors praised the first batch of VSRT training for containing much more information about victim behaviour, motivations and psychology. The consensus was that the second course was more procedurally focused and therefore not as effective in understanding victims. The understanding displayed by VSRT is thrown into sharp relief compared to first response officers; the advocates thought general uniform officers did not receive anywhere near the depth of training on family violence that was required for their role as first responders to an incident.

One of the things that came up when they did the first VSRT course (and that was the good course), they spent a lot of time and they had outside people. It wasn't an insider's course done for police, you look at the stats and you think

when you go to a domestic that you should have a notion of bias towards the female party, that they are the victim. Yep, and then you work backwards to that. And that made a lot of sense, and some of the officers got that, but for a lot of the officers that are attending they're still not going in with that notion at all. So they're still not using what we know to inform their response (Counsellors Focus Group).

For workers working with the victim in the aftermath of an assault, it would be preferable that the VSRT in each District operates 24 hours. The advocates expressed concerns about the VSRT in one District as being understaffed over the long term, at times with only one officer available during a shift. Attempts to raise concerns over this understaffing resulted in damage to the relationship with police management. Advocates raised concerns about police culture not being amenable to input from other disciplines; and the tendency towards insular attitudes being experienced as increasing. They make the point that in an integrated system, a blockage in one part of the system will affect the operations of other components.

When we tried to make comment about the effect of an under-resourced VSRT on our work... and we ended up having a meeting with people like the actual sergeant that had been responsible for them but also some of the big wigs, and it set us back. It didn't set us back in our relationship with the individual officers but it set back our relationships with the above echelons because there isn't... we've got this integration happening at this level but there's not a culture at all in levels above that about challenging one another's systems. It's very defensive, it's you know 'don't go there'. And it's the same with the VSRT course. So whereas they were very open to having all

these outsiders come in and train their specialist teams and saw great value in that, that has now been lost and it's very much an operational based, insider-run course and if people are coming in from the outside, they're coming in very much on police terms, and their input is not as valued as what a policing input is. And that's a shame and that has affected us (Counsellors Focus Group).

However another of the counsellors commented that while it was sometimes difficult to challenge the police perspective, the relationship was generally good at the VSRT level, and the Integrated Case Coordination Committee level, and that fruitful debate had occurred around risk and safety issues with positive outcomes.

How do you challenge one another's perspective? It's very pertinent because it is all around us pooling collectively our knowledge about risk and safety and we quite often will make a case to the sergeant that, they need to be doing more or they need to be doing something or this is a breach or whatever, and there are some really strong discussions but the culture there is quite conducive to that, which is positive (Counsellors Focus Group).

Victim support workers were critical of RASTs and victim statements being taken when the victim was in shock. In many cases these procedures were undertaken in an automatic and process-driven manner which was at odds with the highly emotional state of victims.

I think it's very important to remember when an incident happens, you are in shock... you're hurt, your whole world's been turned upside down, and in the majority of cases, you've got a situation where a woman is sitting in a police car and they're doing tick-a-box and those women are answering questions,

they're not thinking straight! They're in trauma and I think it's far preferable to give it some time so that's she's able to have some thinking time and really work out what's happened, what she wants to see happen... not that it matters what she wants, because that's not taken into consideration but to give the women or the client or the victim, time to think rationally (Counsellors Focus Group).

The victim advocates felt that some police approached the evidence gathering component of family violence in far too simplistic a manner.

We can recount many instances where the police have intervened, determined one party to be the offender, the other the victim, issued a PFVO and then left. Few instances of family violence are that simple yet many are dealt with in this simplistic manner. This occurs most where a victim response team or other services are not available or where the police officers have not had enough training. This kind of "resolution" is not especially effective and can cause greater problems longer term (Women's Crisis Service).

They were also critical of the paucity of use of the *aide memoire* instrument which was designed to elicit the background information for the single-page risk assessment tool. The advocates considered that the lack of use of the *aide memoire* was a training deficit and that it would have an impact on the reliability of RAST scores as illustrated in the following quote:

I heard from a couple of sources that some officers aren't even aware of that other document [the aide memoire]. So they're going in and they're doing the tick a box And you can't expect the police officer to have an exploratory discussion at the time of an incident (when a woman is in shock) about risk and safety. You can expect them to tick boxes, but the notion of the RAST was a lot more about an exploratory thing with the victim, around their history,

around their current experience, their perceptions of the offender, that it doesn't match with the timing of when they actually complete it and I think also doesn't match with their training around how they are supposed to complete it. And that therefore affects the scoring (Women's Crisis Service).

Rather than using the RAST score as an indicator of the risk of future violence, the FVCSS workers read the incident report on the FVMS to obtain a sense of the severity of the incident and use their own knowledge of risk factors to prioritise their caseload according to their own expert judgement.

We have a principle of what we call proactive follow-up, so we get the incident, we go in [to the Family Violence Management System], read, and irrespective of RASTs, we make contact, and so, yeah... although we never really use [RASTs] and we've actually probably gone out of our way to not use it to measure who is afforded greater priority over another. It's more about reading the nature of the incident that will make a priority for us whether we contact now, or that's not a priority compared to that one (Counsellors Focus Group).

Women's crisis workers (outside the *Safe at Home* coalition) were particularly critical about the way that family violence orders were handled. They spoke of general confusion among the victims that they dealt with about the differences between PFVOs and FVOs, what the conditions meant and the process of organising life around an order. There was a lack of information around orders, given in plain English, and victims were confused about how to go about securing a variation if this was required.

The Safe at Home framework must be criticised for the absolute lack of information materials concerning orders, their effect and how to vary or remove them (Women's Crisis Service).

There is a substantial amount of confusion within sectors of the community as to how the orders work, what they mean and how long they last for. Or how to remove them (Women's Crisis Service).

These workers argued that the lack of information about how long orders were in force or the process for variation or removal of orders has had a negative impact on the livelihoods of many families.

Imposing a potentially long lasting order with no information provided on how to remove or vary such orders has in some cases had extreme consequences for the family unit. And, with the limited amount of readily accessible counselling and other support services for victims (and especially offenders) has had a huge impact on many of our clients. In some cases the main breadwinner has been kicked out of the home with the remaining family members being left without financial support (Women's Crisis Service).

Shelter workers also spoke of victims recounting variability in the way orders were enforced by officers in different areas of the state, suggesting that further training was warranted to ensure that orders were uniformly enforced and breaches dealt with in a consistent manner.

The enforcement of orders at times is a bit ad hoc and dependent on the attitude and skills of the police in the different Districts. Some seem more skilled in their ability to appropriately (and fairly) deal with breaches and enforcement situations and still maintain continuity in their response while others are a bit unpredictable (Women's Crisis Service).

5.3 THE COURTS

Victim support workers were critical of the lack of action taken at the Court level, considering that often the lack of follow through, via the sentencing of offenders, adds to the disillusionment of victims and translates into reluctance to reporting further instances.

In relation to the criminalisation, we've also very clearly said that criminal assault is a crime. I think that, and we've had a pro-arrest pro-prosecution response for a long time, long before Safe at Home. What always seems to fall down, and I think which really affects victims' sense of following through or sense of 'that was worth it' involving police... is the courts. So you get to the court, the police have done their bit, they've charged for the assault, the victim is kept engaged with that and VSRT do a better job, we do a pretty good job of that, and court support ... but the justice that's actually handed out for the crimes committed that we're actually wanting women to report and follow through on ... don't act as an encourager or a motivator, it's actually a deterrent and they see those examples or they have one experience of that and they're not going down that road again (Counsellors Focus Group).

The victim support workers felt that while VSRT, FVCSS and court support were working within the spirit of integration; magistrates were standing outside this system.

I think Justice has really done a very poor job of educating magistrates, you know there's this thing of 'well you can't go near magistrates' but we have this, Safe at Home is an integrated system and one of the crucial parts within Justice was the magistrates and they've basically done nothing with them. So we all hear of, you know 'working in the spirit of the integration', which I think at a service level we're doing a really good example of that, but the

magistrates are still very much not part of that integration. And that affects police officer's motivation and all of that as well, adds to their frustration in doing their job and it obviously affects victims in terms of not wanting to follow through in the first place or definitely not having another go with a further charge (Counsellors Focus Group).

Workers were critical of the small number of police prosecutor positions under *Safe at Home* arguing that insufficient resourcing of the prosecution component was hampering the effectiveness of a criminal justice response and sending the wrong message about how seriously the government was taking intimate partner violence. Several workers recounted instances of the prosecutor not having read the file prior to attending court.

[It's] an overloaded system. For example police prosecution, I mean how can prosecutors prosecute and how can we get those results, when they've got like two positions in the south, and they've got however many cases. You've got lawyers up against straight-out-of-uni prosecutors with huge files who might not get to see a file until they're standing in court, that's not taking it very seriously at all (Counsellors Focus Group).

These workers were also somewhat critical of the court support service, in terms of the geographic location of the service, the lack of their presence in the courtroom at the time of the hearing and a general lack of communication between the court support and other victim-centred services, where some degree of networking was regarded as essential for providing holistic assistance to victims.

The court support service is nowhere near the court. It's sort of stuck up in whatever. And it's increasingly becoming more, having more of a presence there but I think, there are a lot of victims that we don't know about and who court support doesn't know about who just lob up in quite critical situations and that having that presence at court to be able to connect with them, there and then, is really what's missing. It's that direct approach service that's very important (Counsellors Focus Group).

The counsellors reported victim's consciousness of being re-victimised by the system that purports to be protecting their safety (Hester, 2006, Visser et al., 2008). Once the police become involved, the process takes on a life of its own, and the victim further loses control.

We do have women expressing concern that their partners are going to have access to their stat dec and She's got no control... you see not only is she a victim of domestic violence, she's a victim to the whole system. She's got no control... And a lot of women work that out don't they; they talk about being victimised by the system. Perhaps more and more so, especially the long and drawn out ones that have got the breaches, and the more complex scenarios, we hear a lot of women verbalising that feeling of being victimised (Counsellors Focus Group).

Almost [as disempowering as the violence itself]. Almost. All women want the violence to stop. That's always the first thing. I hate the behaviour but I love the man (Counsellors Focus Group).

5.4 VICTIM BEST JUDGE OF RISK

The counsellors maintained that the victim was the best judge of their own risk and safety, a point which has been stressed in previous research (Gondolf, 2002, Campbell, 2004, Weisz et al., 2000). Some counsellors made points

about the repertoire of coping strategies that victims employed in managing a relationship that was punctuated with violent incidents; suggesting that sometimes a call to the police will have some effect in halting the behaviour but police insist that the whole machine is put into action.

I still think a woman is the best judge of her own risk and safety. Well I know it doesn't always work, it doesn't work with the police call either. If she's made a huge change, a lot of times calling the police in has had a massive effect but they don't recognise that unless it goes the whole way (Counsellors Focus Group).

While generally advocating a less forceful police response, the advocates acknowledged there were some instances where it was warranted, but argued that in the majority of times an incremental approach would produce more satisfactory long term outcomes than was currently being achieved.

Imminent risk, well we've always been clear on, a very small number, but we know very clearly if somebody was to contact us and we've done our assessment of the risk and they're at imminent risk, irrespective of what they want, we need to call the police in. But that's sort of like, a tiny, very small proportion and then there's all of these other ones and I think with Safe at Home, this is what we've struggled with greatly, that they want to hear about all of those instances and all of those reports rather than how we may work, as she's the expert on managing her own risk and safety, to perhaps getting her to the point where she will engage with the police, but she'll do so on her terms and when she's ready to, and the outcome of that contact is going to be a lot better and probably more sustaining than what it is when the police are in and do their full bit and it's over and done with (Counsellors Focus Group).

There was some discussion of a recent intimate partner homicide where both FVCSS and police had had contact with the victim, who was adamant that she could manage the relationship without their involvement.

We did have some contact there and the police had some. We talked about it at our meeting; we talked around only being able to offer a real engagement as much as she wants to be engaged. Now the police can force themselves onto people and whether they should have forced themselves more upon her or not, I don't know. I don't know whether they possibly could, I don't know if they could have got a better outcome (Counsellors Focus Group).

Counsellors described the lifeworlds (Habermas, 1984, Schutz, 1954) of the victim living in a violent relationship as a mix of habit and risk management.

Abusive relationships do not usually start out being violent, the violence increases over time and the counsellors acknowledge that it will take time to break down the bonds that tie the victim to the offender, particularly if there are children involved.

And there's always that connection there, they can be the devil themselves but that's the father of their child. And it's breaking that down. And that takes time; it's not going to happen overnight. It took however long she's been with him to get that bad and it's going to take almost that long to get him out of her system. Trying to break that habit, and it is a habit, it's not love. I find that the police get really cranky with them, get annoyed with them. And it's like a lot of people will say 'why do they go back, they must like it'. But it's not a question of liking it; it's a question of better the devil you know. When she's with him she knows where he is, it's when she doesn't know where he is that it gets scary (Counsellors Focus Group).

Victims may also experience ambiguity in the aftermath of a report to the police. While there will be trauma and relief there is also often a sense of guilt that the report to the police has resulted in the partner's arrest and detention.

Sometimes the victim is very upset that her notification has meant the perp spent time in jail (Shelter worker)

From the advocates' perspective, police need to have more understanding of the magnitude of the effort required to break the habits and bonds which bind intimate partners together, even when intimate partner violence is involved.

Well it's all about the willingness for a victim to make as many positive changes as she can and it's all about her reflecting on how it got to the point that it got to... It's getting her to that point, but then it's like a huge brick wall in front of her because she then has to start trying to negotiate with all the different systems that are in place. It is very, very de-powering. She's not given a lot of choice, and in the meantime, she's still got to keep on surviving and continue being a mother and caregiver and all of those things. And she's traumatised, but we expect her to keep on functioning. That's why we get so many calls just wanting that support, wanting that encouragement [that they're doing the right thing]. Yes, yes, it's a very difficult thing, taking that first step... its tremendous (Women's Crisis Service).

Many women wanted to disengage with the *Safe at Home* criminal justice process after the initial crisis was past but remain connected to the FVCSS in the longer term.

Once the initial crisis is over and things have started to slowly starting to take a new shape, she doesn't want to remember it, she just wants to get on with things... for some that would be the reaction they would give to the police but they would continue to have an engagement with us...(Counsellors Focus Group).

From the perspective of shelter workers, the Tasmanian experience is similar to research in other areas in that victims tended to separate from the offender several times before terminating the relationship (Wuest and Merritt-Gray, 1999, Panchanadeswaran and McCloskey, 2007, Bell and Naugle, 2005).

Our clients seem to need to leave the perp about seven times before making the final break (Shelter worker).

Shelter workers also talked about victims having complex issues including histories of childhood sexual abuse, which has also been reported elsewhere (Carlson et al., 1999, Cattaneo and Goodman, 2003, Dunn, 2005).

The majority of the clients we see are low SES. The shelter is currently housing some very young women and with young children. I would estimate that 90% are victims of childhood sexual abuse. I think sometimes it is good that they come into the shelter system young as the workers can help them deal with the abuse issues earlier (Shelter Worker).

Lots have substance issues (about 90%) and the substance use is hooked into blocking pain and effects of prior abuse. They're also frightened of being alone. The victim's children often have behavioural problems because of abusive environment. Perpetrators in general are bullies, nasty; they're not all physically abusive but still emotionally damaging (Shelter worker).

Some victims have a poor attitude to police – sometimes because of their own criminality and there's that stupid community attitude about dobbing. Drugs are a problem, particularly since they might be cutting off the source of supply (Women's Crisis Service).

The advocates discussed reluctance to report among low socioeconomic status victims and the general consensus was that this is linked back to low self-esteem; fear (especially fear of losing their children); fear of retaliation and sometimes fear of the perpetrator's friends or family. Reluctance to report in the higher socio-economic groups was often related to financial reasons.

People are vulnerable in certain ways because they're obviously things they can't immediately disentangle, such as children and finances, finances can be a problem. For example, I had one client who didn't report an assault until after the property settlement went through because she felt that if she didn't reach a property agreement first, he was going to make it a lot harder for her once she reported it – (Women's Crisis Service).

These victim advocates, of whom the majority were female, maintained that they encountered very few 'genuine' male victims.

We have very few genuine male victims. It would be about 2% where it was genuine. Their risk to their safety is never as high. As what a female is. They may have been assaulted...even quite a nasty one. But they never lose all their control or power. No (Counsellors Focus Group).

5.5 IMPROVING THE SYSTEM

According to victim advocates, all of *Safe at Home* needs more resources be it fully staffed VSRTs in all Districts; more police prosecutors; more training for first response officers and magistrates; additional funding for repairs; and more options for accommodation including more shelters.

But across all the systems there's also the resourcing issue. It impacts on everything, if you're working with the victim you can't get in touch with the VSRT because they're not on shift, you can't get accommodation because there are no shelters (Counsellors Focus Group).

We have quite a lot issues because they don't really have enough funding for repairs and accommodation (Counsellors Focus Group).

And systemic problems, the biggest one I have is there's no alternative accommodation. That's the biggest thing of all. Well they haven't got a home to stay in. You've got all of his mates and neighbours around the place, the house could be owned by him, or whatever. It's not her home legally. And there's nowhere for them to go. Years ago there were seven shelters in Hobart and you could always get somebody in. And that gave breathing space; it gave support, 24 hours a day, time to think things through. It wasn't perfect. I'm not saying that for a minute. But it was better than what you see now, which is nothing. Having that time out to reassess, to work out, and form a safety plan, the full bit. It's not there anymore. And as far as I'm concerned she has very few options (Counsellors Focus Group).

Some workers wanted to see an additional layer of counselling type intervention or conference before resorting to forced separation by PFVO.

I sort of feel that if there was some other link, where the family could go, of working with both family members and then seeing where it wants to go or

having just some, some intervention there before it goes on. Then if that intervention doesn't work, then it goes this way, but really some sort of family conference which focuses on what does this mean, what can happen, where can you go for help now before it's getting to that more 'well, you're not allowed to be together'. Because it's the separation of the family that I think poses the problem (Women's Crisis Service).

Additional resourcing for case management was also warranted, given the incidence of intimate partner violence each year.

And also for our service, for the levels of support we can offer, if there was more resourcing available for that coordination approach, case management etc. and I'm sure the courts would say the same, and police. Across the board. Given the level of reporting, given the number of FVMS (Counsellors Focus Group).

One worker supported the publication of names of those who were charged with family violence in the local newspaper. This worker also commented that while the level of manipulative and controlling behaviour was more evident in recent times in Tasmania – there has been some improvement because of a reduction in the availability of firearms.

I've always believed until you get societal attitudes about domestic violence, until such time as, we put drunk drivers in the paper, I would love to see woman bashers, pictured in the paper, and what they get in court. Shaming. I think it may be worth a try, because let's face it, Australia is becoming a violent society and what's happening in the home is imitating what's happening out there. And children are watching all of this stuff. I've noticed over the last few years the level of violence has gotten so much worse, years ago you'd have your punching and kicking and stuff. Today it's so much

worse. Ugly. Ugly stuff. More psychological, more manipulation, more controlling... But the guns have gone. Before one in every two or three were threatened to be shot. And it used to be a big part of the initial threat; everybody had a gun in the house (Women's Crisis Service).

Finally these victim advocates suggested that increased levels of community education were required as, apart from an initial television campaign at the time the legislation was introduced, there has been minimal information provided to the public in a readily accessible and consumable fashion, and in multiple formats so that family members are also educated about risk factors and appropriate courses of action.

[In the recent intimate partner homicide] there were a lot of indicators that family members had about the risk. And for me that is a community education issue. And a lot of our information is targeted at the victim or the offender, and we don't target the family who might be concerned about their family member. And they had enough information there to pool that perhaps may of, increased the risk. But even so, it wouldn't have been enough to arrest him and detain him... I don't know. We do get quite a few calls from concerned friends and family members. They talk about the scenario and get information. So next time it happens, they have some information that they can maybe pass on (Counsellors Focus Group).

5.6 SUMMARY

The victim advocate suite of interviews raised issues around the disparity between the intense and mechanistic justice response to intimate partner violence and the desires and needs of victims. They held strong beliefs that the strong, yet somewhat unevenly implemented, justice response under *Safe*

at Home would fuel high rates of attrition and drive down reporting in the long term. They were critical of the quality and timing of the information provided to victims and reported significant lack of understanding of the system of family violence orders by victims, offenders and the general public. Victim advocates applauded the creation of the specialist VSRT and the work being undertaken by these teams but were critical of resourcing. They reported that operational police generally do a good job but some individuals displayed problematic and simplistic attitudes that impacted negatively on victims' trust in the system. They were also critical of the training around intimate partner violence provided to general uniform police and also of more recent training for VSRT, due to a lack of emphasis on victim psychology and behaviour and the skills needed for appropriate handling of ambiguity displayed by victims. They were also critical of what they regarded as a simplistic approach to evidence gathering and risk assessment that their clients had observed. Victim advocates also felt that there were also inconsistencies in the way orders were enforced and the way breaches were dealt with. The general feeling was that while they wanted more sensitivity to victims' needs displayed in the police response, they also wanted consistency in the process when the victim wanted to pursue a prosecution. The courts came under criticism for failing to provide follow through in terms of sentencing, blaming under-resourcing in the police prosecution team to a

great extent for this. Also, victim advocates felt that while VSRT, the FVCSS, the ICC, and to some extent Court Support, were working with the spirit of integration, magistrates were standing outside the system. The advocates maintained that the victim in the majority of cases was aware of the extent of their risk and generally employed a large repertoire of strategies to manage their safety. At least two thirds of victims wanted to remain in their relationships, at least in the medium term and there are a plethora of reasons for this. The failure of the criminal justice system to acknowledge this leads to a sense of disempowerment and consequential rapid disengagement with the justice-led process. In terms of improving the existing system, the advocates called for more community education, police and magistrate training, and increased resourcing at all levels of *Safe at Home*, with particular emphasis on engaging with victims more fully. They advocated more intensive case management throughout the system, ideally allocating a single worker to work with victims to alleviate confusion and frustration with inconsistent information and processing.

Chapter Six reveals the viewpoints of magistrates and solicitors working in the family violence area.

6 THE LEGAL FRATERNITY

This chapter explores the main themes arising from the interviews with magistrates and solicitors from around Tasmania. These interviews explored a number of themes around criminalisation as a response to intimate partner violence and the impact of the coordinated response in Tasmania. The Tasmanian Magistrates Court received additional funding under *Safe at Home* in anticipation of increased activity around prosecutions of family violence, the creation of a higher number of family violence orders and anticipation of a higher number of breaches. This suite of interviews identified a number of barriers to the effective implementation of *Safe at Home*.

Legal professionals talked about the Act and associated policy response as being a step in the right direction. They spoke of public awareness of family violence as unacceptable behaviour being significantly enhanced. However at the same time they talked about the measures developed under *Safe at Home* not being sufficient to address the causes or effects of family violence, mainly due to a lack (or uneven availability) of resources.

The Act has been great for raising awareness of family violence and to that extent it has brought it into the open. But there's more that needs to be done to properly address the effects of family violence and there have been unintended consequences of the Act. There really aren't enough resources and some haven't been fully

implemented and others are not accessible enough on a state-wide basis. But it's a good start (Solicitor).

So what we've got here is legislation which looks pretty but has no ability to assist and stop the actual root problem. In fact it doesn't do that at all (Magistrate).

Some magistrates questioned the use of the criminal justice system to address the social problem of intimate partner violence, suggesting it was a blunt instrument.

I understand why people want to focus on the issue and may wish to define it as a legal issue, a criminal justice issue, to indicate the appropriate denunciation by the community but that's one thing, the symbolic aspect.... but it's like using a sledgehammer to crack a nut (Magistrate).

However one of the magistrates commented that the violence between intimate partners was a private matter and ought to remain so.

I don't know what you want to achieve by bringing it out... it is essentially a private matter, any more than an argument between two people is a private matter (Magistrate).

This same magistrate also maintained that the incidence of domestic violence was exaggerated.

My experience in the courtroom is that the issue of violence domestically is exaggerated. You know we focus on it as some sort of social curse, it has to be expurgated. But in terms of outcome, what you see in the courtroom is trivial. There's hardly.... I can't recall a serious case of injury to a woman in a long, long time (Magistrate).

Some solicitors expressed the view that legislation was too narrowly implemented, legislation entitled 'Family Violence' implied wider applicability than violence between intimate partners, and they felt that the net-widening was warranted in their experience.

It's called the Family Violence Act but it's really just for people who are or were in the past intimate partners. There's no capacity for orders to be made between siblings or parents and adult children and this really needs to be addressed, even other members of the family unit such as grandparents and elder abuse. We see situations where family violence has occurred within the family unit but isn't only between partners. The Act doesn't afford protection or any remedy to these people and it should or change the name (Solicitor).

6.1 POLICE

Magistrates acknowledged that the police had a considerable amount of new powers under the new Act. One of the magistrates regarded PFVOs as a formidable, yet flexible, device which gave police considerable discretionary options.

I think perhaps it was over enthusiastic to resort to the hard end, what's happening now is we're going back to more the old style of police being involved, and police using PFVOs having a much more flexible weapon than they had rather than having to resort to the court system (Magistrate).

The legal fraternity were mindful of the importance of an urgent police response in the provision of safety for victims.

There will be a certain number of cases where you can only provide safety by getting the victim the hell out of there.....one of the key questions is going to

be, how quickly does somebody get there if something happens. And we're never going to lose that importance of the urgent response (Solicitor).

However, legal practitioners were particularly critical of what they perceived as an uneven quality of police response¹⁶ reporting that some of their clients experienced a superficial investigation around an incident.

We often see where the police have intervened, determined one party to be the offender, the other the victim, issued a PFVO and then left. It would be great if family violence was that simple but so many are dealt with in this simplistic manner. This seems to happen most where a victim response team or other services are not available or where the police don't seem to have had enough training. This kind of response can cause greater harm than good (Solicitor).

There is a lot [of variation in the response] from police officer to police officer and from station to station and the thing is we're reasonably aware that it's going to take a long time for the message to get through and also given the rates of offending and there are no sectors of society which aren't affected by family violence – we're also quite aware that there is a number of police officers who are going to have – possibly offended themselves and possibly have very bad attitudes towards victim safety and the right to be safe and all that kind of stuff (Solicitor).

One solicitor pointed out that the responses of police tended to be less than ideal at stations away from the main residential centres and also that even

¹⁶ This criticism was mostly of first response officers, not the specialist Victim Safety Response Teams.

though emotional abuse was explicitly included in the Act, police were more comfortable in proceeding where there was evidence of physical assault.

There are systemic barriers which stop the system working for victims, usually those that get a poor initial response and that's more likely away from the central stations where they keep a better eye on itand the fact that physical violence rather than psych is being taken more notice of (Solicitor).

Some lawyers mentioned that police did not seem to do a very good job of explaining their procedures, the conditions on orders and the reasoning behind them, which meant their clients were often very confused about what was going to happen

Sometimes clients don't understand what the police are going to do. 'Oh, I didn't know that they'd be removing him from the house' or 'I didn't want him to be gone forever'. Or there may be something like a relatively minor incident and they've wanted full Orders and everything and they haven't got that – there's only a keep the peace (Solicitor).

The solicitors reported that many of their clients seemed to have little understanding of the conditions on their PFVO. Solicitors argued that if police are not clear in explaining the conditions on orders or the rationale for the conditions, clients may be unaware that a breach may have occurred or even that they have incited a breach. This is particularly important for those families where low levels of literacy are an issue (Payne et al., 2006).

A lot of our clients, both victims and offenders, don't seem to understand the orders made by police; they are not explained very well to them. Some

children have faced long periods of not seeing one parent because the orders haven't been properly explained or even the wrong information given at the time the order is imposed. At times the orders are far more stringent than any that the Family Court would impose (Solicitor).

However, there were also claims that people were working the system to their advantage; in one case the solicitor claimed the victim was using *Safe at Home* to lay claim to the alleged offenders' property.

I know of a case of a male client being removed by effect of a PFVO from a property that he had owned outright for several years while his ex-partner was allowed to remain there. There were no children and the relationship had been extremely short. She was trying to get the house (Solicitor).

Solicitors were critical of the length of time taken to review and change orders that were inappropriate or unworkable for their clients.

Another issue we have is that under the Act police have the power to make instantaneous orders yet if those orders are inappropriate or unworkable for whatever reason or need to be varied it can take an incredibly long time for them to be reviewed and the changes made. It's not an acceptable system where an order can be made with minimal investigation but then take weeks or months to amend (Solicitor).

One solicitor recounted an incident where a child had called the police. The subsequent arrest of their parent and no-contact provisions on the PFVO caused extreme distress to this child. The *Safe at Home* promotional material states that there are new services for child victims of family violence; in this

case the child has not received any support and by all accounts remains severely affected by the events that were set in train by their actions.

We had a situation where a child reported a family violence situation to police. The police arrived and removed a parent who was subsequently charged and prosecuted with common assault. In the interim the parent was prevented from entering the family home by way of a PFVO. Police did not give any advice as to how this might be varied. At the hearing they brought up the effect of the child witnessing the violence but no consideration was given or service made available to address the effect on the child of seeing a parent taken away in handcuffs, being prevented from returning to the family home and then having to appear in court as a result of them telephoning the police. The child was in extreme distress and guilt and believed that what had happened to the parent was directly their fault even though they had done the right thing (Solicitor).

As well as accusing police of coming down too harshly in some situations, solicitors also reported being frustrated when there was inaction or unacceptable delays in action on the part of police. Solicitors also reported police having stereotypical and out-dated attitudes towards victims, and suggesting that their training has been insufficient or ineffectual around victimology. As mentioned in Chapter 4, police management maintain that police have rigorous training around family violence but this does not seem to have resulted in any shift in understanding victim behaviour.

I have had incidences where you could have presented the offender, having broken an order, to police on a plate with parsley around it – and nothing happens. Because they would say it was a simple matter ... and, well if she

doesn't like that, then why doesn't she leave and you know, just the usual sorts of perceptions. And you know if she leaves she is in more danger (Solicitor).

Some members of the legal fraternity interviewed for this research also reported that some offenders were using the system to make counter claims against victims. This is a well-documented tactic used by intensely controlling offenders (Bagshaw and Chung, 2000, Archer, 1994, Anderson and Umberson, 2001, Schwartz and DeKeseredy, 2008, Strauchler et al., 2004, Dutton and Haring, 1997). There would appear to be some merit in cross-agency and cross-profession training on victimology and offender behaviour for members of the legal fraternity and Court personnel to better serve their clients.

6.2 RISK ASSESSMENTS

The risk assessment tool used by Tasmania Police is used to identify which victims are at higher risk of increased and escalating violence. In the case of high risk assessment scores (more than 28), police are not able to issue a PFVO and instead the offender appears before a magistrate¹⁷.

The interviews with magistrates revealed a lack of understanding of the role of the RAST. For example, Magistrates were not aware the RAST was a victim-

¹⁷ This has now changed and police are able to issue a PFVO in the case of a high score, but have the option of applying to the Court for an FVO.

based tool, nor what items were covered in the risk assessment. Magistrates reported only seeing the overall score of the RAST (not the individual risk factors which made up the final score), not seeing the RAST at all or ignoring it. Some dismissed it as an example of hearsay and therefore inadmissible as evidence. Magistrates preferred to rely on statements and complaints.

It was used originally but these days... sometimes it's mentioned, sometimes it's not, historically I mean, these days it's rarely used. Or it is used but I sometimes go back to the original information, whether that's an application for a family violence order, and that kind of documentation, I go back to the original complaint and I look at the original complaint or statement and I try to get some sort of dynamic as to whether I should remand someone in custody or release them on bail. I try to inform myself as comprehensively as I can (Magistrate).

A majority of magistrates were critical of the introduction of risk assessments and regarded them as conflicting with the ethos of the court system which looks at each offence as an individual incident rather than a repetitive and escalating phenomenon. These magistrates constantly referred to incidents of violence as 'isolated incidents', 'one-offs', 'flash in the pan' and so on as the following example illustrates:

The fact that a person may be male or female, lose their temper on one occasion and commit what can be seen as family violence under the legislation, doesn't mean that person is a husband-beater or wife-beater. There may be particular circumstances which caused that particular incident. To treat that person as a criminal because of one flash in the pan is absurd. But that's what the legislation does (Magistrate).

The family violence literature suggests that between six and twenty incidents may have occurred before the initial report to police and that the violent relationship is often characterised by escalation (McFarlane et al., 2000, Millbank, 2000, Strauchler et al., 2004, Dutton et al., 2005). This magistrate later contradicts themselves...

They're never isolated. Never isolated. A person does not become a wife beater overnight or a husband beater overnight. From my experience sitting here, I would say that you often find that the issues originally were much less serious, things like – he never let me go out, he wouldn't let me have my own money, I wasn't allowed to have a mobile phone – and there are steps taken where there is restriction on their life, and then it's progressed – so I told him I was going to have a phone and he smacked me over the ear, so I stopped cooking his meals, then he punched me in the face – and you find it's a progression (Magistrate).

Another magistrate explains that the RAST is useful for investigating the incident but that courts do not take into account the history of an incident. The other conflict of risk assessment with legal practice is the contribution to prediction of future violence. The Court operates on the principle that offenders are punished and deterred from reoffending or rehabilitated.

[Items on the Risk Assessment Tool] are relevant matters pertaining to the actual incident which is brought before the court but I mean historically to take into account the historical facts runs contrary in fact to what courts do. If you look to rehabilitation in particular and you are saying that the person can't be rehabilitated if they do it once before? That's an absurdity in my view (Magistrate).

This comment about rehabilitation is interesting, considering that this magistrate later mentions that he has not referred any family violence offender to the Family Violence Offender program.

One of the solicitors observed that there was a proportion of the population which would continue to offend and escalate their violent behaviour in spite of their previous RAST score, and this solicitor clearly had a good understanding of the type of behaviour that would lead to escalation (Cattaneo and Goodman, 2003, Mason and Julian, 2009, McFarlane et al., 2000) as the following quote illustrates:

There are a certain percentage of people who will always offend – where guns exist they will be used. If we have them lying around they will be used – we know that. Everything that humans can possibly abuse – a certain percentage of the population will abuse. So the question is, what can you do about that? And obviously there's a problem which you've probably picked up on is some people with medium RASTs will then go on to lethal incidents..[recent murder victim at time of interview] had a RAST of 14. And that might be to do with different types of offender and how they offend and the stalker-type offenders being more likely to escalate into homicide (Solicitor).

In all, magistrates did not seem to subscribe to the risk assessment paradigm that was a key component of the police response to family violence under the new legislation.

6.3 SECTION 12

Section 12 of the *Family Violence Act 2004* created a deal of controversy in the early days of its introduction. Section 12 of the Act states:

S12 (1) A person charged with family violence is not to be granted bail unless a judge, a court or police officer is satisfied that release of the person on bail would not be likely to adversely affect the safety, wellbeing and interests of an affected person or affected child (2004).

Section 12 came under fire by Tasmanian judges, Director of Public Prosecutions, the Law Society and the editor of the local daily paper (The Mercury, 23 May 2005) for reversing the onus of proof against bail. However, in most Australian jurisdictions there is a presumption against the granting of bail where there is a history or threat of domestic violence.

As a result of the media campaign to raise awareness of the new legislation reporting of intimate partner violence spiked and a number of alleged offenders were remanded in custody. This led to overcrowding in the remand centre and a backlog of matters before the courts and the unintended consequence of matters being discontinued.

I am sure there are more matters of domestic or family violence allegations coming up before us now than there were before, particularly in the criminal field. We would often receive in the old civil jurisdiction the restraint applications, we would have a lot of those but they weren't necessarily accompanied by allegations of criminal assault. Now, they are almost invariably accompanied by allegations of criminal assault. Which involves Section 12, which involves remand in custody. So, instead of having many matters which we receive in the civil area for orders of restraint, we now have the civil side of the application plus the criminal allegation which go hand in hand and often with the defendant in custody. That puts pressures on the Court's lists because we don't want to keep people in custody longer than

necessary. Not just in family violence but in general. And that's where we have problems with the matters being discontinued. And the person is simply let go, not ever having necessarily having being convicted of anything. A complaint made against them simply discontinued. My feeling is that we really haven't dealt with them in any way different than we did before, which I think is unfortunate. So we may not necessarily as an institution be directing our minds towards a policy objective, because that traditionally is not our role. We adjudicate (Magistrate).

One of the things that I see is this long... well, remand for a number of weeks and then the ultimate withdrawal. That really troubles me because if you did not have the Section 12 provision, you may not have the remand numbers and you wouldn't have the pressure on victims to withdraw because of reasons unassociated with the conduct. So, you know, victims who get up and say 'He didn't do it, I'm exaggerating' are basically telling lies. But they're doing it to get him out so he can come home and help with the kids. I find it appalling that a person is put into that position forced into an out and out lie that we all know that's not true, I think that's appalling, but the system has forced her into that. The criminal system (Magistrate).

Both the magistrates quoted above express some concern that the criminal justice system is not really working for victims if they withdraw their allegations for family reasons¹⁸. These magistrates are aware that in following the legal traditions they are not fulfilling the intent of the legislation and its associated policy.

¹⁸ Although neither has suggested that the victim may have been coerced into withdrawing which is also a common occurrence.

Another of the magistrates however implies that the males are often wrongly accused or also victims and suffer long periods of incarceration before the inevitable withdrawal of a false complaint or an acquittal.

I can recall blokes being injured, particularly coming in with their teeth knocked out and things like that, and being locked up for months and months, then to have their case dismissed, either by an acquittal or a woman withdrawing the complaint (Magistrate).

The literature around prosecution of family violence incidents stresses the importance of expeditious processing through the legal system (Romkens, 2006, Vilhauer, 2000, Ford and Regoli, 1993, Guzik, 2009, Wills, 1996, Tolman and Weisz, 1995). This research was undertaken during the first three years of legislative and policy change. While the architects of Safe at Home expected an increase in arrests and prosecutions and allocated additional funds to the Courts to cater for additional activity; legal professionals reported a continued backlog three years after the introduction of the legislation. This suggests that the budgetary requirements for implementing the legislation were too conservative.

6.4 TRIGGERS FOR VIOLENCE

During the course of the interviews, interviewees were asked what they saw as the catalysts for violence amongst intimate partners. One magistrate described it as a fact of life that males and females will sometimes resort to violence during conflict. He also maintained that males and females were

equally likely to perpetrate violence on their partner and that women were often responsible for violence against them because of their own behaviour.

Everyone knows males and females squabble and carry on, it's a fact of life, it's just like having children, they squabble and carry on. They strike each other and hurt each other and stuff like that, arguably you may say that's a serious problem. There needs to be some sufficient community reason to elevate certain dynamics between individuals of a particular status to deal with it in a particular way. The underlying assumption of the violence between males and females is that the women are disproportionately on the worst receiving end when it happens. But I understand the research says they are not unwilling participants. Or indeed precipitators of the dynamics or the pressure that reaches a particular stage and I really think that rather than spend any time focussing on men perhaps there should be more focus on women to not push men too far. There are many men who know how to deal with and handle women and there are many men who can accommodate that at all levels, but many people can't, many blokes can't. Women generally have a far better capacity to articulate than men do... nature did equip women with some very formidable skills to deal with men...they do have a lot of skills but unfortunately one skill that many of them don't have is the skill to say 'whoops I've gone too far' and if I go too far there may be certain consequences (Magistrate).

This magistrate echoes the tendency for lenient approaches to offenders based on beliefs of justifiable provocation prevalent among police and the general public (Belknap, 1995, VicHealth, 2006, Worden and Carlson, 2005, Logan et al., 2006, Johnson et al., 1994). Drugs and alcohol were mentioned regularly as precursors to intimate partner violence. As with police, the legal fraternity commented that the offender was most likely to be drunk or drug

affected but sometimes the victim was also implicated. One solicitor commented that the mutual use of drugs or alcohol can cause issues in the prosecution of the case as there is no clear distinction between which party is at fault and to what degree, but that the Courts were gradually coming to understand the complexities of behaviour associated with abuse.

Drugs and alcohol – very common. And sometimes it's the victim as well and that complicates things too – both in terms of quality of memory and in terms often of behaviour because to some extent it is very much easier if you've got to get through the system if you've got a victim who's behaved well and an offender that's behaved badly – if you've got both people behaving badly it's harder, although certain explanations can be made for it and certainly there's a better understanding of that. And there's less of an attitude of, well you've both behaved badly so nothing is in place – which was a real problem (Solicitor).

As well as use of drugs and alcohol, the legal fraternity commented on the prevalence of mental health issues amongst both victims and offenders, covering the full range from psychosis amongst perpetrators to deep depression amongst victims (Tolman and Rosen, 2001, Brown and McDonald, 1997, Humphreys and Thiara, 2003, Nestor, 2002, Roberts et al., 1998, Romito et al., 2005, Hearn, 1998).

Mental illness makes it hard both from an evidence point of view and from a reporting point of view and from understanding what's not acceptable point of view (Solicitor).

The following comment highlights an infrequently discussed issue, the borderline personality disorder.

Mental health is an issue. And the kind of problem that I see most problems with is the personality disorder. I know of cases where an extended – we're talking years – campaign of behaviour has been conducted by people with personality disorders– and yes the behaviours come a little bit from the personality disorder – so the only way to remove it is going to be to remove the personality disorder, but, there isn't any treatment for it and they can't be compelled to have any kind of treatment. So they are a real problem area. And the thing is that for the purpose of criminal proceedings, they are sane. They're not (Solicitor).

Several magistrates expressed the view that the courts needed more therapeutic programs to refer offenders into in order to address the root causes of violence perpetrated against an intimate partner. The following magistrate describes family violence orders as court mandated separation – destined to fail in cases where the parties want to maintain a relationship.

We need a structure where we can address the problems they've got. If he's an alcoholic, let's get him to AA or whatever, if he's a drug addict, let's get him into a drug program. If he's got a problem with temper, anger management. But we don't do that. We say here is a family violence order, go away and sin no more. What a load of rubbish, seriously. We're not addressing any issue at all. We're saying 'stay apart from each other; you can't live together for 12 months'. We're not addressing any issue at all. And as soon as they leave they're having a kiss up the corridor and tonight they're going to be in bed together (Magistrate).

One of the solicitors made an important point in relation to some victims not being overly concerned about their safety. There were a number of serious incidents around Tasmania in the past few years where victims had believed that they could control the violence best by being with the offender and helping them with their issues. This solicitor was unusual in their grasp of victim behaviours (Folkman and Moskowitz, 2004, Goodman et al., 2003, Gutner et al., 2006, Herbert et al., 1991, Nurius et al., 2004, Waldrop and Resick, 2004, Zink et al., 2006).

People have different priorities and sometimes their priority is not safety. And so they won't act in ways that prioritise safety because that's not their main priority. And also they seem to have this illusion that they can control these things and prevent further incidents (Solicitor).

Magistrates also described a proportion of victims that used *Safe at Home* in order to manage the rough patches in their relationships. The following quote from one magistrate illustrates an understanding that the police form part of this victim's coping strategy but suggests that this is a manipulative tactic to get her partner out of the house. However the magistrate goes on to suggest that criminalisation has the potential to escalate further violence by engendering hostility through use of incarceration as part of the process which in some cases will trigger retaliation.

It's often you find... it's predominantly women do that. Often at the weekends. Hubby comes home drunk on the Friday night; put him in, he's in

custody til Monday. Have a quiet weekend but want him back first thing Monday morning so he can go to work. Then after a couple of months it will happen again. But you could make an order saying they have to stay away from each other, and they ring them when they're still in the court room. They say' here it is here's a message from her'. And they do. And this is going to continue to happen as long as it's criminalised. So if we don't look at some rational way of managing these issues, rather than just putting away the other half in jail. We are not overcoming the problem, in fact we are creating, and we are part of the problem now. We are engendering their whole hostility (Magistrate).

6.5 LEGAL RULES & PRINCIPLES

Intimate partner violence often involves a series of incidents, ranging in seriousness and sometimes escalating, but often with little physical evidence, and often *with no witnesses*. Australian courts have complex rules around evidence to determine which types of evidence are admissible in proceedings before the Courts (see Evidence Act (Tasmania) 2001). Research participants identified legal rules around evidence as problematic in securing prosecutions. Where witnesses exist, yet are unwilling to testify, the case for prosecution quickly crumbles. For example:

There are issues with evidence gathering and quality of evidence – being able to prove things at the requisite levels. Unwilling witnesses are also a problem and there are all kinds of reasons for being unwilling (Solicitor).

If a victim withdraws the complaint and gives a plausible explanation for their injuries, and there are no other witnesses, the legal principle of proving

'beyond reasonable doubt' comes into play. The alternative story casts 'reasonable doubt' onto the victim's original statement.

The court must act to the evidence before it. Ok? So if the victim comes in and says 'my husband's never hit me at all' now what happened was, last night we came home and we were both drunk and I fell over and I ran into this door twice. How do we convict that person? The police say 'yeah when we went there yes she had been drinking, she was drunk'. Now in law, beyond reasonable doubt. Legislation can't change a fundamental principle of law. Unfortunately, the people who drafted the legislation didn't understand what law was about. About basic principles of law (Magistrate).

Even in cases where the victim has visible injuries and the magistrate believes these injuries were the result of violence perpetrated by their partner, if the allegation is withdrawn and an alternative explanation is given, the Court is unable to proceed.

The severe cases, there clearly is a need in particular to get the court's greater powers in relation to those. Now I had one not long ago where quite clearly the wife in that case (I am always careful to say not wives only because the legislation today says men are bad women are not which is not factual from what happens in court) but this lady was clearly being beaten by her husband. No doubt about it. And it came before me and he was charged in fact with a serious offence of wounding, as well. Now the matter was adjourned, committal proceedings were set down and at committal proceedings she denied that he had in fact touched her at all, which was absolute rubbish. And though she's had no contact with him, he's been in custody and she's saying 'No, he didn't do this at all. It was a stranger who did it to me'. She was lying all the time. Now the Supreme Court had to drop it because there was no evidence against him. He came back before me on the other matters and

again, there was nothing I could do either because she was adamant that nothing had happened. Now, I saw her the day that he was brought in. She came in with him, although she shouldn't have been here, she did and sat in the court room crying and saying she wanted him back. And she was black and blue (Magistrate).

Magistrates voiced concerns about the impact of the criminalisation of intimate partner violence on the principles on which the legal system is based:

Criminalised. The worst thing they could have ever done. Because people are now coming into court and lying under oath. Now that doesn't help the legal system, it doesn't help anything. And because it's so wrong, we are forcing people to lie on oath. By legislation (Magistrate).

There is a substantial body of literature around the mismatch of legal proceedings with victim needs. Victims (or concerned others) call the police because of fear of harm and wanting immediate cessation of violence, not necessarily to set a huge legal process underway (Bhuyan and Senturia, 2005, Boatright-Horowitz et al., 2004, Bonomi et al., 2006, Bowman, 1992, Erez and Belknap, 1998, Hare, 2006, Hirschel and Hutchison, 2003, Hoyle, 1998, Robinson and Tregidga, 2007).

The evidence provided by the police regarding the alleged offence is usually the only evidence tendered to the Court and this is subsequently tested for admissibility via evidentiary rules.

You do have to keep in mind that the system requires proof. There has to be proof – it can't be fair to anybody, and that includes victims who get charged with stuff, if it doesn't require the proof (Solicitor).

One magistrate noted that they have a very specialised task in determining whether a conviction is warranted under the law.

We're downstream, we're like specialists. All we see is a bit of the action and by the time we get it the action is defined within a very narrow frame of reference. But that isn't the whole action, the whole dynamic; we are simply making findings according to the rules of process that we have to determine whether a matter has been, whether someone ought to be convicted according to law (Magistrate).

Another feature of the adversarial legal system in Australia are the principles of natural justice. These principles relate to ensuring that everyone has a right to a fair hearing before persons who do not hold bias. Natural justice incorporates the practice that material evidence is disclosed to the other side to enable them to form a defence for allegations made against them.

In the case of 'Hayley' described in Vignette 9, she visibly trembled with apprehension when the VSRT informed her that her ex-partner would receive a copy of her statement as part of the process of application for an FVO. There was a history of stalking and rape in this relationship and Hayley was clearly concerned about retaliation. She told VSRT she would need to think further about applying for the FVO under the circumstances. This principle whereby the accused party receives copies of the evidence is defended

completely by the legal fraternity, citing it as the basis of fairness before the law.

Well I don't think there is any other way it can work really (Solicitor).

One of the solicitors interviewed also raised the issue of counter claims arising out of the system.

Well there's two competing influences really and if you have a situation which is not necessarily unknown, where the offender is making allegations as well – when you think how you deal with that? – but they have to have a copy of the statement too, so you have to be a little bit careful because the problem with systems is that offenders will abuse them too – so you have to make sure that your system's going to work properly when there's a victim on the other side (Solicitor).

Lawyers reported being frustrated with the length of time taken to get a matter to hearing citing insufficient prosecution staff and magistrate attitude as the primary reason for delays. Delays were also seen as contributing to the likelihood of the allegations being withdrawn (Erez and Belknap, 1998, McCormick, 1998, Vilhauer, 2000, Paradine and Wilkinson, 2004, Wills, 1996).

I would perhaps have hoped that the length of time before something gets to the final hearing would have been shorter – my feeling is that only some magistrates pursue that as important and that the time lag makes it more difficult for victims (Solicitor).

You've just got to get more people in [the prosecution area]. I think they're really under a lot of pressure and I don't think it's fair to them. The delays in the court are a problem I would think – they make it more likely that people

are going to wander off. The attitude of the judiciary at times are problems (Solicitor).

One magistrate made the observation that the number of prosecuted matters had declined due to withdrawal of allegations. He also observed that a large number of alleged offenders were being acquitted (Urbis, 2008).

From my point of view the numbers of prosecuted matters have dropped off significantly mainly because I imagine that women are withdrawing for all sorts of reasons. And people are being acquitted, even if the matters were brought to a hearing (Magistrate).

Some magistrates suggested that there was a case for developing a specialised family violence circuit in Tasmania, with additional training available for interested magistrates.

All magistrates are capable professional people but some are more interested in this area than others, some are better in this area than others, more sympathetic, you know, perhaps more aware of perhaps the tensions and the dynamics that are involved. All those sort of things. And it just seems to me that we might have to have a look at whether we adopt a specific management approach, whether we say well we will only have x number of magistrates in this area or we'll have them professionally developed or educated and trained, or whatever, in this area so that they can be more in tune with the dynamics, of what the victims are going through in these circumstances (Magistrate).

Several magistrates suggested that the courts needed to be able to require people to have counselling as a pre-trial measure, a precautionary and interim

measure for all family violence matters, reserving the offender programme for serious offenders who have been incarcerated.

In many cases straight orders, family violence orders are made and it doesn't stop a bullet being fired from a gun pointed at your head. And that's what's stupid. We need counsellors. We need counsellors attached to the court where the court has the power to make people go. If they don't go, that means you can say 'Ok I am prepared to have this matter go to trial now'. She's badly injured, we have medical evidence, substantiated police or medical evidence or whatever, and if that person is guilty we will convict them. Whether she wants or he wants to go ahead or not. (Magistrate).

[the offender program] That's fine at the end. But I'm talking about Saturday, Friday night, hubby has worked all week, goes home pissed and smacks around his wife. They're the ones we need to get at that point and re-educate. Not to wait until he almost kills her. So we're doing nothing for all the ones [at low levels] we say that's fine, don't do it and they go away. To me it's patently absurd. Serious cases don't occur overnight. A person that's in a lovey dovey relationship doesn't almost kill his wife. It's a natural progression. But we're not treating it [at the lower levels], we're waiting til it gets up [to the higher levels] and then have an offender program. Totally stupid (Magistrate).

A key component of the Safe at Home policy is the Offender Management program. The family violence literature makes a strong point that changing perpetrator's attitudes to violence is a crucial element of long term control of the social problem of family violence (Heru, 2007, Covell et al., 2007, Gondolf, 2002, Henning and Holdford, 2006, Holzworth-Munroe and Stuart, 1994, Steinman, 1991, Henning et al., 2005, Eckhardt et al., 2006, Kernsmith, 2005,

Tolman and Edleson, 1995). At the time this research was undertaken there was criticism by VSRT, lawyers and victim advocates about the difficulties of filling the Tasmanian offender program. One of the magistrates commented that he had never referred anyone to the offender program established under *Safe at Home*.

I've never considered [the offender program] in any matter that I've had, it's never been suggested to me. By anybody, by prosecution or counsel, in my court. It might be different between here and other parts of the state. I've never referred anybody to that program (Magistrate).

Again this highlights the lack of training that magistrates have received about *Safe at Home* and its component programs.

6.6 VICTIM SUPPORT

It was the consensus of the legal practitioners and magistrates interviewed for this research that the level of support available to victims was insufficient under *Safe at Home*. Magistrates reported that the Court Support staff were seldom visible.

I haven't seen a lot of the victim support people, I must say. I don't quite know why that is. There have been occasions when they've been present and I've been able to have people talk with them for various reasons. On a visit I had to Adelaide a couple of years ago, in the sessions that I observed they had present in the Court, as I said before, victim support, defendant support so that they were very accessible and if the magistrate saw the need to get advice from them or refer one of the parties to them, the magistrate could do it straight away. Rather than what we have to do sometimes, 'look just take a

seat there, we'll try and get someone here to have a talk to you about this. And the person's got kids in child care or whatever, and it's a crisis situation anyway, they don't want it stood over for a couple of hours, they want some immediate sort of answers (Magistrate).

As illustrated by the above comment it also appeared that the magistrates were expecting the Court Support staff to provide counselling support (as had been provided by the Domestic Violence Counselling Service prior to *Safe at Home*)¹⁹ whereas the role of the newly established Court Support Service is to explain the procedural workings of the Court to the victim.

The consensus among the legal fraternity was that victims required additional support, either in terms of information about what was going to happen once the police were involved, detailed information about family violence orders and their conditions. There was also a call for expanded support for offenders, in terms of intermediate counselling programs and information services.

The legislation provides an overall basis for a Safe at Home framework. But, without the widespread provision of additional support services such as offender counselling, victim support and general and accessible information concerning PFVOs, the Safe at Home framework is not really effective. There are simply not enough support services such as counselling and anger

¹⁹ This expectation was also evident among the interviews with police officers.

management courses available. Those services that do exist and that are effective are provided by the non-government sector with little or no extra funding being provided to them since Safe at Home commenced (Solicitor).

Even though we know there are services available they are not readily offered or given advice about, especially males whether they are victims or offenders. And other than community legal services there are no legal services for alleged offenders unless they face detention (Solicitor).

6.7 EFFECT ON REPORTING

Magistrates and solicitors expressed concern that the pro-arrest, pro-prosecution strategies underpinning *Safe at Home* may inhibit future reporting, a potential risk discussed extensively in the literature (Guzik, 2009, Felson et al., 2002, Bonomi et al., 2006, Campbell et al., 2007, Hare, 2006).

We might have a situation where by now the people have experienced it, and have had the defendants taken away and locked up, may well not report again because that's not what they want to happen, but they know that if they do make a complaint, that's what's most likely to happen. He'll be taken away and he'll be locked up. So maybe there's an inhibition from people who have been through it, been through the process once and don't want to go near it again. The lady with six kids for example, he was arrested once and taken away, so she's prepared now to perhaps not make reports in circumstances where we all think that she should (Magistrate).

It's working sometimes I know – it's not working sometimes,... I have very strong suspicions though that -- although people don't call me up to say --I'm not reporting on what's going on (Solicitor).

Another solicitor questioned the ability of the criminal justice system to protect victims in the case where a report to police triggers another assault.

I don't know how many times somebody discloses something and then there's another incident basically because of that disclosure. I don't know, in those cases, what factors there would be which would mean there was always going to be another incident anyway – the offender was always going to try again – and it's then a question of what you do about the victim's actual safety – because if the offender was always going to have another go, it becomes a question of what was enough to either stop the go or to make it too difficult for him to get to the victim (Solicitor)

In this chapter I have provided descriptions of the experiences of legal practitioners and magistrates with regard to the implementation of the *Family Violence Act 2004* and the associated *Safe at Home* strategy. While seeing the intervention as a step in the right direction, this group of interviewees reported that the *Safe at Home* contained significant flaws which prevented it from achieving its desired outcomes. Both solicitors and magistrates reported uneven police responses, ranging from superficial to extremely heavy-handed. Police were not explaining their procedures properly and in particular, not explaining the conditions on PFVOs and their implications. Some magistrates reported having issues with the police risk assessment practices. While the magistrates and solicitors provided some minor commentary about the presumption against bail contained in s 12 of the Act, their particular concern was about the number of complaints which were discontinued after a period in remand. Some of the magistrates were concerned about the resources this consumed whereas others were concerned about victims withdrawing complaints which would have resulted in successful prosecution had they

been continued. Through these interviews, there was evidence of uneven understanding of the components of *Safe at Home*. In particular the lack of knowledge about the Offender Intervention Program impacted on referrals to the program. Incarcerating offenders without a mandated behaviour change program is unlikely to reduce family violence, even though the efficacy of the programs has been questioned (Richards, 2001, Gondolf, 2001, Jones and Gondolf, 2001, Norlander and Eckhardt, 2005). There appears to be a case for intensive training for magistrates and lawyers who frequently encounter family violence cases on the finer details of *Safe at Home*, both to understand the full array of interventions and allay misconceptions. Further, these same groups would benefit from instruction in the victimology and perpetrator literature to provide an improved understanding of client behaviours.

The narratives of the legal fraternity included widely held perceptions that drugs and alcohol and mental health were often triggers of violence between intimate partners. They voiced criticisms of the limited amount of support available to victims and suggested that additional services were warranted for offenders at the lower end of the scale of violence as a pre-emptive measure in addition to a high-end offender program.

A significant finding from this suite of interviews was that there are legal principles around evidence, natural justice and reasonable doubt that prevent prosecution proceeding without a willing complainant, even though the

legislation provides the pathway for prosecution to occur without the victim's consent. Lawyers and magistrates alike treat these principles as sacrosanct, suggesting that those drafting the legislation are at fault for not understanding these basic, although sometimes complex, principles of law.

In the next chapter, groups of storylines from the narratives presented in the previous four chapters will be linked to form three main discourses of justice, risk management and the genuine victim. The discourses will be compared to Hajer's concepts of discourse institutionalisation and discourse coalitions to determine their value in understanding the relationships of the members of the whole-of-government response to intimate partner violence in Tasmania.

7 IDEOLOGIES AND DISCOURSES

Hajer has suggested that storylines are condensed statements for complex narratives and that some actors rely on the shorthand provided to impose their view of reality on others (Hajer, 2006). Actors from different backgrounds can form specific coalitions around specific storylines. A discourse coalition can be said to dominate a given political space if the discourse dominates the discursive space and this is reflected in institutional practices. The preceding chapters have introduced a large array of storylines around intimate partner violence. Some storylines are shared by a number of the research participants and/or the general population. In the first part of this chapter I will present three constellations of storylines and demonstrate how these coalesce to form powerful discourses in the landscape of intimate partner violence. The discourses will be reviewed against Hajer's concepts of discourse coalitions and discourse institutionalisation. In the remainder of the chapter I will discuss the implications of the findings on implementing Tasmania's whole-of-government policy around intimate partner violence.

7.1 THE GENUINE VICTIM

The 'genuine victim' discourse is made up of four main storylines that run through the interviews in the project. These are the 'why doesn't she leave'

storyline; the vexatious claim storyline; the provocation storyline and the underclass storyline.

Table 13 Storylines contributing to the genuine victim discourse

Storyline	Police	Legal fraternity	Victim Advocates
Why doesn't she just leave?	Frontline	Small proportion of magistrates and solicitors	No
Vexatious claims	Frontline and some VSRT	No	No
Provocation	Frontline	Small proportion of magistrates	No
The Underclass	Frontline	minimal	No

In almost all the interviews with frontline officers, there was some level of doubt cast on the veracity of complaints made by a substantial group of victims – some officers estimated that there was a degree of doubt as to the legitimacy of the complaint in up to fifty per cent of the incidents that they attended, for other officers it was estimated to be ten per cent. They held these views for a number of reasons. A proportion of officers accused victims of lying when completing their risk assessments to get their partner out of the house for the weekend because they withdrew their complaints early in the following week. Police spoke of victims being savvy with the system to the extent of 'preparing' statements that would result in the arrest of their partner, and accused this group of victims of using the system to manage the rough patches in their relationships. Others doubted the veracity of the complaint when the victim refused to go to court, or breached their family

violence order or instigated a breach. Police voiced suspicions of the victim that does not want to follow the prescribed legal process such as in the sharing of statements in an application for a family violence order.

Officers expressed frustration that victims would return to their violent partners, which led to the belief that the violence was exaggerated or that the victim was in some way complicit in the violence; in this storyline they were joined by some magistrates and some lawyers.

Officers face a dilemma of interpreting this behaviour as that of a victim because their rationality is based on the common sense that rational people do not willingly expose themselves to situations in which they are likely to be assaulted (Dunn and Powell-Williams, 2007) . A number of officers, one magistrate and the general public use a storyline of provocation, where the victim may have nagged the perpetrator to breaking point or even instigated the violence which has then 'got out of hand'. The storyline of "mutual combat" (Dobash et al., 1992, Schwartz and DeKeseredy, 2008, Straus, 1993) or "common couple violence" (Johnson, 1995) shifts the blame, or part of it, to the victim. Such a storyline underestimates the impact of the violence on women and their children and ignores the dynamics of violent relationships in addressing a specific incident rather than seeing the violence as part of a pattern of power and control (Ferraro, 1989). In legal arenas, there is a tendency to accept a victim's reluctance to resort to legal means as a sign that

the danger no longer exists and the situation is "under control" (Ferraro, 1989) The victim's reluctance to prosecute helps abusers minimise victim injury and persuade legal officials that the violence in the particular incident does not merit serious consideration, or that women too readily mobilise the system despite a lack of serious danger to themselves or their children. In this sense, those that subscribe to the genuine victim discourse are in effect colluding with perpetrators. It is well documented that perpetrators often blame victims or find reasons to support or minimise their use of violence; in fact many perpetrators possess considerable charm and ability to convince both police and often the victim that the incident was minor (Frude, 1994, Saunders, 1995, Henning et al., 2005).

After every atrocity one can expect to hear the same predictable apologies; it never happened; the victim lies; the victim exaggerates; the victim brought it upon herself and in so many cases, it is time to forget the past and move on. The more powerful the perpetrator, the greater is his prerogative to name and define reality, and the more completely his arguments prevail (Herman, 1992).

Police also subscribe to the underclass storyline where 80 per cent of their calls are to the same group of people; low socio-economic class, high alcohol and drug use, and an intergenerational usage of violence to solve conflict. The public also view most family violence as occurring in low socio-economic groups.

The victim advocates consulted during the fieldwork felt that it was a central role of advocacy services to challenge institutional practices and beliefs that prevent women from getting the full protection of the legal system. Melanie Shepard identified the 'blatant and subtle ways that people in the system blame women' for being victimised by their partners (1999). The genuine victim discourse also does not take into account the significant barriers that victims face in naming up, reporting and following through with a prosecution for intimate partner violence. Tasmanian advocates in the study spoke of the multiple realities that make up women's lives. Women are trapped in violent relationships by social and structural constraints due to gender inequality and patriarchal institutions, including the criminal justice system, which did not respond to them and also blamed them for their own victimisation (Herbert et al., 1991, Yllo, 1993, Dunn, 2005, Davies et al., 1998, Peled et al., 2000). More recently victims of intimate partner violence are described in terms of being survivors (Kelley, 1987, Taylor, 2004, Mullender and Hague, 2000, Short et al., 2000) and staying is seen as a coping strategy (Dunn, 2005, Anderson et al., 2003, Horrill and Berman, 2004, Berns and Schweinberger, 2007). Loseke (1989) was central in pointing out that the lived experience of domestic violence victims is heterogeneous and that organisations and individuals that constructed them as pure victims would have difficulty in reconciling their clients with this kind of ideal type. In spite of alleged training to recognise a

victim's agency and to honour all the choices they make (including staying) police have considerable difficulty doing this. The VSRT training observed during this study was heavy on police powers and processes but very weak on victimology. The interviews with police often revealed their sense of helplessness and frustration about victims going back into a relationship with a partner that had been violent. Even when officers displayed and reported significant empathy, they did not have a language that really understood the constraints associated with being a victim. The language they use to discuss victims (and offenders) is often less than sympathetic.

Even though research overwhelmingly shows that women in fact minimise their abuse (Fraser, 2003, McCormick, 1998, Anderson et al., 2003, Dunn, 2005, Henderson et al., 1997, Mahoney, 1994, Zink et al., 2006) police, lawyers and others in the criminal justice system share a discourse of a proportion of women who are most likely fabricating or embellishing their abuse. As Melanie Sheperd has said

While it is clear that every community can find the case of 'the woman who lied', all women are suspect (1999).

Victim-blaming, especially in the context of negative, provocative or confrontational victim behaviour, has been attributed to people's self-protective need to perceive the world as predictable and controllable (Rhatigan et al., 2011, Thapar-Björkert and Morgan, 2010). Rhatigan *et al*

(2011) suggest that if observers are provided with a potential situational cause for violence, as in victim confrontation, they will attribute less responsibility and blame to the perpetrator (e.g. “He is not a bad guy; he was provoked”).

There is also some psychological research which suggests that people are more likely to make excuses for perpetration of violence for people who are similar to themselves; this involves attributing a violent reaction to provocation or other extrinsic factors (Kelley, 1987). Conversely, positive behaviours of people perceived to be similar to themselves are viewed as intrinsic or the result of personal characteristics. Rhatigan's study found that males were more likely to find ameliorating circumstances for the violence of other males. Without personal experience of the problem, non-victims resort to a general narrative for intimate partner violence filling in the gaps in their information with storylines augmented by the stock portrayal of victims in televised drama. They have trouble explaining the actions of the abuser except by external factors such as alcohol or childhood abuse (Berns and Schweinberger, 2007) whereas those with firsthand experience refer extensively to their experiences and of other known victims – real people and situations – when explaining the problem. Their portrayals are more complex (Rhatigan et al., 2011). If the general public blames victims as well, this could not only have a significant impact on victims’ experiences within and outside

the legal system, but could also encourage perpetrators to continue using violence to control partners and resolve conflict in their relationships.

Sociologically, the discourse of the genuine victim represents an ideology of victimisation which overemphasises agency, choice and individualism and does not leave space for understanding complex and heterogeneous situations like that found in violent intimate relationships. Rothenberg (2002) argued that the success of the Battered Women Syndrome (Walker, 1984) explanation is because it rests on an individualised argument, which both medicalises and pathologises the deviant behaviour of women returning to abusive partners. The criminal justice system has found it acceptable because it needs individualised explanations of why particular crimes are committed (Rothenberg, 2002p 98). Hence a psychological explanation is seen as more useful than a sociological one. The genuine victim discourse is used as a triaging technique by police in terms of which reports will be taken seriously (as well as providing justification for their decision making in terms of the depth of evidence-gathering in the case and also as an explanation for high attrition rates). The interviews in this study found that suspicion and doubt around the victim's genuineness was embedded in the police culture.

Suggestions that a proportion of allegations of violence were false or predominantly emanating from an underclass is part of police discourse on the limitations of the legislation. Discourses are powerful indicators of

attitude and will impact both overtly and subtly on officer behaviour.

Residents of public housing estates often complain²⁰ of being stigmatised in terms of employment because of the resistance by potential employers to people living in their area. Many speak of the need to purchase post office boxes in different suburbs to improve their employability. There is evidence from this research that police may hold similar attitudes to people from low socioeconomic suburbs and this may contribute to both conscious and unconscious triaging with the potential to deliver skewed responses to sections of the community; perhaps even “postcode justice”.

Figure 6 illustrates the discourse coalition of the genuine victim discourse.

The dominant proponents of the discourse are the police, with a small number of members of the legal fraternity also subscribing to some of the storylines in the discourse.

²⁰ The author has undertaken several studies on workforce participation in low socioeconomic groups. These results are in unpublished reports that are commercial-in-confidence.



Figure 6 The Discourse Coalition of the Genuine Victim

Victim advocates sit outside the discourse. Their understanding of victimology and experience with helping victims in their decision-making means that they reject the genuine victim discourse; however they still engage in debate with the proponents of the discourse, so are still part of the coalition.

7.2 JUSTICE

There were strong storylines around the theme of the justice system and the processes within it. These were stories around the willing complainant (which hooks back into the discourse of the genuine victim discussed above) and related criminal justice procedures, rules around evidence and related principles of natural justice. In a sense these were defensive storylines because they were usually evoked as a result of criticism of low prosecution

rates or other perceived roadblocks related to the criminal justice system, e.g. length of time to schedule hearings or inconsistencies between the decisions of judicial officers.

Table 14 Storylines contributing to the natural justice discourse

Storyline	Police	Legal fraternity	Victim Advocates
Prosecution requires a willing complainant	Yes	Yes	No
Criminal justice	Yes	Yes	No
Evidence	Yes	Yes	No
Natural Justice	Yes	Yes	No

Magistrates, police and police prosecutors all defended the low level of prosecution by stating that the victim had withdrawn the complaint, explaining that with little alternative evidence apart from the complaint, this means that the prosecution has no options with which to proceed. It has been reported elsewhere that prosecutors believe or anticipate that victims will withdraw or recant their allegations (Ellis, 1984), and this is often the reason they hesitate to pursue intimate partner violence cases. These views are based on the presumption that a cooperating victim is essential to the objective of prosecution, which in turn is based on the assumption that the aim of the prosecution is conviction. These two assumptions are not necessarily defensible in domestic violence cases. The aim of the prosecution, victim advocates argue, should be victim safety, which the perpetrator's entanglement with the legal system may augment (Worden, 2000).

Prosecution can also be a way to send a message to the perpetrator that the violence is unacceptable, or it can serve as a measure to empower victims, whereby the criminal justice system serves as an ally at the victim's disposal (Ford, 1991).

The debate surrounding the most effective ways to improve the prosecution of domestic violence cases has revolved around victims' behaviour, particularly their lack of "cooperation." The *Safe at Home* policy framework attempted to sidestep the perceived disinclination of victims to follow through with their domestic violence complaints or overcome early withdrawal from proceedings with a pro-prosecution policy. Such policies are designed to allow prosecutors to go forward with a prosecution even when victims decide to withdraw the complaint or fail to cooperate with the prosecution (Ford and Regoli, 1993) and to release victims from formal responsibility to pursue cases, and remove the impact of victim ambivalence about cooperating with charges against their partners. Research evaluating no-drop pro-prosecution policies has been sparse; the research that exists shows that these policies have a limited value in accomplishing conviction of perpetrators whose victims do not choose to cooperate (Ford and Regoli, 1993). *The Review of the Family Violence Act* (Urbis, 2008) reported that the view of senior stakeholders in the family violence policy community in Tasmania was that the majority of convictions under the Act are being

reached through guilty pleas, with too few matters proceeding to hearing. The consequences of this situation are that the onus on proceeding with charges has been returned to the complainant. The Review also reported a reluctance on the part of police prosecutors to test circumstantial evidence in cases where complainants are reluctant or uncooperative (Urbis, 2008 p18).

As the narratives of police, victim advocates and the legal fraternity suggest these descriptions do not characterise a significant proportion of cases that currently are processed by the criminal justice system. *Safe at Home* has undertaken other strategies to increase the ability to prosecute crimes with reluctant victims, or those who withdraw their complaints. One strategy is the adoption of victim advocacy services such as Court Support, to streamline case processing and help increase victim retention in the legal process. Victim advocates criticised Court Support for their limited role which emphasises educating victims about court processes and explaining jargon, rather than providing support in the form of ongoing counselling through the process. The *Review of the Integrated Response to Family Violence* (Success Works, 2009) states that the Court Support service sees fifty new clients a month and has a large caseload of existing clients; however most magistrates were not aware they were present in their courtrooms.

John Stuart Mill wrote that the depth of the feelings surrounding the appeal to nature was the most intense and most deeply rooted of all those which

gather round and protect old institutions and customs (Mill, 1988). The storylines associated with the natural justice discourse include those relating to legal principles and rules. For example, if the victim withdraws the complaint and provides a credible explanation for their injuries, and there are no other witnesses, the legal principle of proving 'beyond reasonable doubt' is applicable. The provision of an alternative story casts 'reasonable doubt' onto the victim's original statement which effectively enables the magistrate to dismiss the case. Several magistrates reported feeling uncomfortable with this as they realised the victim was lying or had been coerced into dropping the charges, but they did not proceed. The adherence to the legal principle was stronger than the motivation to pursue the prosecution, without the victim's cooperation, as enabled by the legislation. Further, legal rules around evidence including the types of evidence that were admissible were fiercely defended. Police officers maintained that hard evidence was required in order to proceed with a complaint. The insistence on physical evidence remains a sticking point even though the definition of family violence in the Act includes psychological and emotional abuse.

In the natural justice storyline, the adversarial system used by Australian courts was regarded as sacrosanct. The initial discomfort of the legal fraternity around Section 12 which reversed the onus of proof (whereby the offender was presumed guilty on the hearsay of the complainant) caused

some magistrates to comment that the architects of *Safe at Home* did not understand the principles of law because of the inclusion of this provision. All members of the legal fraternity hotly defend the right of the alleged perpetrator to view the allegations made by the complainant even when it is pointed out that this is potentially inflammable and could place the complainant at increased risk (given that the provision of the statement is required in the instance of perpetrators whose risk of increased offending is high and the victim is seeking the increased protection offered by a court issued FVO). Adherence to the principles of law in instances of intimate partner violence adds to the propensity for victims to be doubly victimised by a system which defines their experience within a narrow frame (Taylor, 2004). Taylor and Gassner make the point that:

Stereotypical attitudes around sexual violence are embedded and encoded in the public and legal domain in ways that create additional distress and burdens for victim/survivors, and which make the process of reporting, investigation and judicial procedure a site where sexist assumptions may often masquerade as objective decision-making and the application of due process (Taylor and Gassner, 2010).

These points can be made equally about intimate partner violence. Many of the justifications for observing legal rules and due process were couched in storylines that drew on both the genuine victim and the justice discourses. One magistrate who described himself as a 'specialist in the interpretation of the law' displayed overtly misogynist attitudes including suggesting that

female victims stop nagging their partners as well as being dismissive of the extent of actual harm suffered by victims of intimate partner violence.

Not all storylines in the justice discourse were totally defensive of the criminal justice response to intimate partner violence. Several of the magistrates were critical of using criminalisation as a solution.

In some respects this is like social engineering with a big hammer and the criminal law is the hammer (Magistrate).

Criminalisation was regarded by these magistrates as a very powerful tool but not necessarily suited to the situation of violence between people in a relationship. Magistrates commented that domestic assault was not the same as common assault or burglary perpetrated by a stranger. While the majority of magistrates were supportive of principles of therapeutic jurisprudence, their descriptions of how this system would work did not involve any changes to the adversarial system nor the basic processes that the Courts work by; the therapeutic options would stand alongside other options available to the magistrate using due processes under an adversarial model.

The victim advocates disagreed with the criminalisation of family violence because of their experience in counselling women in relationships with violent men. They believed that a criminal process which involved an increase in the intervention by police and the courts would not meet the needs of the majority of women with violent partners (Edwards, 1989). Their views were,

as Melanie Shepard has pointed out, that the criminal justice system is too slow, too adversarial, too inconsistent, too incident focused and too unwilling to follow through on its own orders to be of predictable help (1999).

The justice discourse, based on its inherent storylines around legal rules, principles and 'natural' justice acts as an effective gatekeeper for determining victim access to the sanctions available through the criminal justice system (Taylor and Gassner, 2010). The discourse effectively acts as a triage system which via the filters of rules of evidence and practices associated with an adversarial system effectively deters victims from proceeding if there is any ambivalence at all regarding whether they want the full force of the legal machine to be unleashed on their partner. Only the victims who want to end their relationship will have the fortitude to see the process through to the end. The criminal justice machine has very little capacity to entertain the prospect of staying in the relationship but ending the violence (apart from 'keep the peace' conditions on lower level Police Family Violence Orders).

illustrates the discourse coalition associated with the justice discourse.

Central actors in this discursive landscape are the police, magistrates, other legal practitioners.

Tasmanian advocates are outside, but still connected, to the justice discourse coalition because they see their role as ensuring that their clients are not further victimised by a criminal justice process that does not really meet their needs.

7.3 RISK MANAGEMENT

The third major discourse that has been identified from this research is that of risk management. Three storylines emerged from the narratives of the research participants that combine to create a powerful discourse around the management of risk in the policy arena of intimate partner violence. These are the risk assessment, discretion and accountability storylines. This discourse has been named 'risk management' because hand in hand with the attempt to harness some control over the unknown are technologies with which to manage the risk and this raises the question of responsibility.



Figure 7 Discourse Coalition for the Justice Discourse

Table 15 Storylines contributing to the risk management discourse

Storyline	Police	Legal fraternity	Victim Advocates
Risk paradigm	Managers	No	Yes
Discretion	Yes	Yes	No
Accountability	Yes	No	No

For governments, using a paradigm of risk, wherein different levels of risk are identified, enables resources to be matched to the level of risk and need.

This not only refers to the social problems area but infrastructure, the economy etc., where for example, black-spot areas are targeted for road upgrades and industries in difficulty receive government subsidies to reduce the risk of large scale unemployment.

Within the field of sociology there are three main strands of theory around risk. These categories are the cultural-symbolic strand (Douglas, 1992); the 'risk society' strand (Beck, 1992, Beck, 1998, Giddens, 1984, Giddens, 1990, Giddens, 1991, Giddens, 1992) and the writings of Michel Foucault around governmentality and surveillance which describe a highly constructed and interconnected interplay of power, knowledge and control in which risk places a major role (Foucault, 1972, Foucault, 1977, Foucault, 1980, Foucault, 1988, Foucault, 1990, Foucault, 1991, Foucault, 2000). The theoretical stances can be placed on a continuum from the loosely constructionist views of Beck to the high constructionism of Foucault as shown in Figure 8.

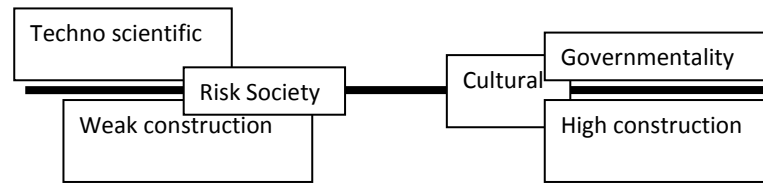


Figure 8 Socio-Cultural theories of risk

A further influential stream of theory around risk pertaining to this study of intimate partner violence is the techno-scientific category. Because this is often cited as the 'realist' viewpoint, it sits at the end point beyond weak constructionism. According to Burgess (2006), risk appeals to modern political and institutional authority which, amid a diminished sense of society and politics, has become more technocratic. The attractiveness of governing through risk management for target driven technocracy lies in its outward appearance of scientific rigour and complex mechanisms to predict and anticipate events.

The idea of risk could have been custom-made; its universalising technology, its abstractness, its power of condensation, its scientificity, its connection with objective analysis, make it perfect. Above all, its forensic uses fit the tool to the task of building a culture that supports a modern industrial society (Douglas, 1992).

Risk 'technologies' such as mitigation planning, standards, policies and protocols and so on, focus on the improvement of reliability and safety of systems (whether technological or administrative) as a means to reduce and share risk.

For sociologists at the medium end of constructionism, risk is understood as one of the heterogeneous governmental strategies of disciplinary power by which populations and individuals are monitored and managed (Lupton, 1999, Douglas, 1992, Garland, 2001). A risk management approach permits the evasion of responsibility for those events through its emphasis on 'uncertainty' which implies that responsibility is diffuse and the scope for influence quite small. For the individual, secondary risk management accords with individualised directions to justify professional activity through a formalised paper trail.

Policing without a clear focus on risk factors generally shows no effect on crime, but when directed patrols, proactive arrests and problem solving at 'hotspots' are used, these have substantial impact on crime prevention (Sherman and Eck, 2002). The challenges of using a risk paradigm in policing are in identifying the factors that are causal in relation to any given social problem as well as identifying factors that might be protective. It can be difficult to isolate the catalysts for making a difference in multi-component interventions and to assess the efficiency and effectiveness of interventions (Farrington, 2000).

Integral to a contemporary criminal justice response to intimate partner violence is risk, with the number one risk being that any level of abuse has the potential to escalate into lethality. Seven domestic homicides in a two-year

period in a population of less than half a million was the catalyst for the radical overhaul of the Tasmanian government response to violence between intimate partners (Arnold and Robson, 2006). One of the main ways that differentiated *Safe at Home* from the previous policy was in the broadening of the definition of what constituted intimate partner violence. Alongside the new definition was the police practice of undertaking risk assessments with victims. This was done for two reasons; to ascertain the history of violence in the relationship; and to enable the police to make some decisions about how best to manage victim safety (Tasmanian Institute of Law Enforcement Studies, 2005). The sense that they are the subject of scrutiny and surveillance by their managers and the other partner agencies in *Safe at Home* features strongly amongst the storylines used by police (Ballucci, 2008). As well as the risk assessment tool, officers are required to complete an electronic incident report on the Family Violence Management System (FVMS). This database underpins the case management approach, as other service providers in the Department of Health and Human Services, in Court Support and Liaison Services also have access to the FVMS.

These agencies can look online at what action police have taken and what stages matters are at, as well as add their own notes to the system²¹, so officers can be provided with feedback from those services. The process involved development of a range of protocols for police response to family violence that had to be integrated with the protocols of other agencies.

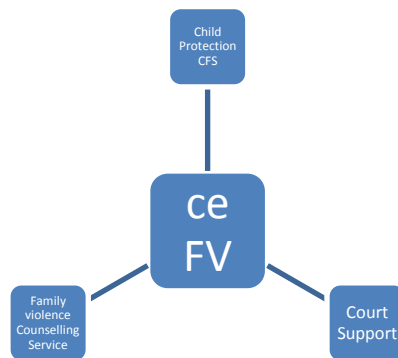


Figure 9 Agency access to the Police Family Violence Management System

What is written on the FVMS reflects the social definitions made by individual officers as well as the priorities of police administration and thus they play a crucial role in the chain of evidence and affect the case outcomes. The FVMS records the institutional significance of what occurred at the incident. For example at the time of the research, police management were actively promoting the practice of taking victim statements according to set headings. In one District they then followed the items on the RAST, encouraging all

²¹ These agencies can view police notes regarding the incident but are not able to edit police content. Some agencies have 'view only' access while others are able to attach notes.

officers to use this as a standard format. Police officers exhibited a far greater understanding of their responsibilities in regard to the reporting process than they did about the research behind the risk factors on the RAST. A key point made during the VSRT training was that at least one of the seven intimate partner homicides which led to the development of *Safe at Home* was due to officer error. Police officers were keenly aware that their processes were under surveillance, if not directly at the time; they could be called into question at a later date.

With family violence, if you don't do it right, it's the one area that will come back and bite you. You need to be able to stand in the Coroner's Court and detail what you did, and then you can't be criticised (Police Officer 14).

Actuarial risk assessment, using tools such as the RAST, is based on probabilities derived from research to identify the likely level of risk, focusing especially on the most dangerous offender, and its purpose is to manage the risk by containing it and minimising the likelihood of further harm. But Power calls risk assessments such as the RAST 'fantasy documents' which 'present comforting images of controlling the uncontrollable' (2004).

Some officers view risk assessments as just another set of paperwork which they were required to do and thus received criticism for simplistic and hurried implementation in a 'tick and flick' manner. Mary Douglas (1992) critiques the techno-scientific approach (of which risk assessment tools such as the RAST

are an example) as promoting a very narrow view which gives unintended emphasis on perceptual pathology rather than a rounded theory which includes the impact of social, political, cultural and ethical beliefs in the construction of individual judgment.

Victim advocates operationalised Douglas' broader definition of risk assessment in their less formal (but displaying greater sensitivity to the social structural influences on victims risk and safety) risk assessments around risk and protective factors when counselling victims and brought this expertise to the integrated case conferencing meetings. They were supportive of police risk assessments if done systematically and with the view to taking a full contextual history of the violence in the relationship which would maximise the ability of the coordinated response to assist the victim with the management of her safety in both the short and long term.

As mentioned in previous chapters, the introduction of the risk assessment process into the policing of intimate partner violence in Tasmania has not been without its critics and has experienced a variety of issues around its implementation. In spite of receiving training in the administration of risk assessments, a number of stakeholders in the community were critical of the lack of consistency in the way they are used in the different police districts. Some magistrates were extremely critical and never referred to risk

assessments in their decision making, while others saw the risk paradigm as contrary to the rehabilitative focus of the court system.

Speaking from the basis of this research, it would appear that most of the controversy around risk and its management in the context of intimate partner violence can be traced to implicit and undocumented value-based decisions that then affect the ‘technologies’²² of risk assessment both during the initial formulation of the risk problem and the way its management is implemented, documented and scrutinised. These implicit and undocumented value-based decisions reflect the institutionalisation of this discourse in both the constructivist sense and the Foucauldian sense.

Some police officers experienced the requirement to undertake risk assessments, and in fact to be required to arrest or process family violence incidents in a uniform way, as taking away their discretion (Rowe, 2007). They did not view the additional ability to issue Police Family Violence Orders as a discretionary technique or tool, although police managers and magistrates clearly did. In an early article on discretion by Berk and Loseke (1980), they argue that this is influenced by the reluctance of police to attribute the role of

²² In a Foucauldian sense, where technologies refers to systems, knowledge and institutions which surround a particular discourse.

victim to women in a domestic setting, suggesting that the perception of family violence being a private matter thereby casting doubt on the 'genuineness' of the victim also runs subtly through the discretionary storyline. Feminists contend that this 'natural' domain of intimacy (family and



sexuality) is legally constructed, culturally defined, the site of power relations and under-protects women relative to men (Higgins, 2000).

The fathers' rights contingent on the other hand is keen to promote the image of the family, emphasising the 'social good' of keeping families together. They call for greater use of mediation and counselling and reject risk assessments and associated pro-arrest policies and hook themselves firmly into the culture of silencing and blaming victims of violence. Figure 10 Coalition associated with the risk management discourse

And so the risk management discourse coalition is made up of police (with internal disruptions in the storylines of police management and some front line officers); the victim advocates who define risk assessment quite differently to police; magistrates who dispute the risk paradigm in relation to the rehabilitative justice paradigm; and solicitors who are critical of the practice of risk assessment when it is simplistically and mechanically performed to the detriment of their client.

7.4 DISCOURSE INSTITUTIONALISATION

Hajer (1993) proposed that a discourse can be considered institutionalised when the actors that engage in it perceive the world in a particular way, orient their behaviour strategically and form institutional patterns that cement the discourse into policies, procedures, techniques and rules.

In the case of the three discourses that have been identified through this case study of the implementation of intimate partner violence in Tasmania via a coordinated agency response, we find that two discourses fit Hajer's conceptualisation neatly. The third discourse, while lacking overt operationalisation into institutional patterns runs through the other two discourses and affects the institutional responses in these discourses in subtle but extremely powerful ways.

The justice discourse ostensibly works on the principle of equality before the law. The way in which justice is perceived by members of its discourse

coalition is through the lens of an adversarial system. Whether the adversaries are two citizens in civil matters or the state and a citizen in criminal matters, the system is set up in terms of a complainant or prosecutor and a defendant who each receive equal time before a judicial officer or a jury, and present their cases via a system of legal rules and processes. The system is staffed by trained experts who represent the adversaries in their navigations through the system. It can be argued that this discourse is highly institutionalised because of the longevity of its influence and the sheer numbers of institutional patterns that relate to it; from legislation, to common law, to professional associations, to educational institutions, texts, and national and international bodies that reinforce and perpetuate the justice discourse. In terms of the case study on intimate partner violence in Tasmania that is the subject of this research, the justice discourse is strongly upheld by members of the legal fraternity who regard the adversarial system, the institution of the Courts and their technologies (rules, processes and historical traditions) as sacrosanct.

The risk management discourse is relatively new compared to the centuries-old justice discourse. It has arisen from a perception that modern life is full of uncertainty and that rational, scientific steps can be taken to minimise damage and monitor identifiable risk factors. This discourse also fulfils the requirements for institutionalisation because of the plethora of institutions

and technologies that have been created in response to it. Because risk management is such a ubiquitous discourse, the institutions range from government monitoring agencies as diverse as those that monitor weights and measures to nuclear energy watchdogs. Assessment and monitoring technologies range from paper-based actuarial risk assessments, to neighbourhood watch programs to satellite surveillance of international borders. In the case of intimate partner violence, police need to manage the risk of escalating violence for adult and child victims and have instituted techniques and processes for both operational police and the specialist family violence teams (VSRT). At the same time these police processes are subject to surveillance by sister agencies through electronic viewing access of the Family Violence Information System (FVMS) as well as techniques such as the capacity of senior officers to override the risk assessment scores of front line police. The implementation of the legislation and the coordinated response has also been independently evaluated (Urbis, 2008, Success Works, 2009).

The genuine victim discourse is experienced as mistrust of the veracity of victim's complaints and operationalised by actors in terms of rhetoric and behaviours which demonstrate bias against certain groups of victims. This bias might be geographically, gender or ethnically based. Sometimes the strategic behaviour might be in terms of treating the dubious victim more harshly e.g., in terms of rigid or overzealous following of rules and protocols,

or in other cases the actor might proceed more slowly in dealing with this group of victims or not act at all because of a perception of it being a waste of time and resources. There is no evidence that this discourse is overtly institutionalised as can be demonstrated for the discourses of justice and risk management. However, in the case of the genuine victim discourse in the area of intimate partner violence, one could argue that this discourse is more subtly institutionalised via the insinuation of this discourse into the justice and risk management discourses. The genuine victim discourse gains entrée into the justice discourse via the way a crime is defined and the way evidence is gathered and presented to the court. Many crimes against intimate partners, physical and sexual, are very difficult to process through the court system. The genuine victim discourse subtly influences what evidence is admitted or dismissed and what cases are pursued, in spite of circumstantial evidence, or dismissed because of circumstantial evidence or witnesses deemed unreliable by the justice discourse. The genuine victim discourse also influences the risk management discourse in this arena through its strong influence on the value base of actors. Personal beliefs about individual or social group behaviours can influence the way in which the assessment and monitoring processes are performed and protocols adhered to. Some police officers and members of the legal profession refer to the genuine victim discourse as a defence when critics suggest that the legislation and associated coordinated response to

family violence may not be meeting the needs of all adult and child victims.

These are some of the ways that the genuine victim discourse gains purchase on institutional patterns.

Table 16 Institutionalisation of discourses of genuine victim, natural justice & risk

Discourse	Cognition	Strategic Behaviour	Institutional pattern
Genuine Victim	Doubt and mistrust	Rhetoric, bias demonstrated through action and non-action (gatekeeping)	No (but ...)
Justice	Adversarial	Legal rules, gatekeeping	yes
Risk Management	Uncertainty, minimise damage surveillance	Risk assessment and management	yes

Using Hajer's framework, as illustrated in Table 16, the genuine victim discourse does not satisfy the conditions for institutionalisation, however I would argue that the power of this discourse is subtle and rhizomatic and it achieves significant influence through its insinuation into institutional patterns that have the reputation for equity, objectivity and scientific rigour. It is particularly powerful in the way it has infiltrated the justice discourse.

7.5 COMPETING RATIONALITIES OF RISK, THE LAW AND ADVOCACY

There are a number of issues that this analysis raises; firstly, for victim safety and secondly, for policy delivery through multi-agency frameworks. The current study has shown that there are three institutional cultures which are

also operating alongside the three discourses described above. Members of the institutional cultures of police, the legal fraternity and victim advocacy services populate discourse coalitions which ebb and flow around the anthology of discourses which surround intimate partner violence. What was interesting in this research was the organic nature of the coalitions, with the same group of actors waxing and waning dependent on the area being discussed.

Holstein and Gubrium (2003) argued that 'local interpretive cultures along with practical goals and orientations influence the assignment of meaning; context delimits the diversity of interpretation' (Holstein and Gubrium 2003, p287). Police and the legal fraternity were 'on the same page' with regard to being oriented to the criminal processing of family violence incidents and placing high importance on the quality of evidence. The justice paradigm is problematic for processing domestic violence cases for a combination of reasons. One reason is that the police or criminal justice response is reactive (i.e., conditional on reports received). This is exacerbated by the fact that intimate partner violence often involves a series of incidents, sometimes with escalating seriousness, but often with little physical evidence, and often *with no witnesses*; therefore evidence is often not available to the standard required by criminal proceedings. The adversarial process also presupposes financial and personal independence of the parties. In addition, the

adversarial nature of the criminal justice process presupposes that both sides are committed to winning "their cases" and that victims primarily seek public conviction and punishment – as would be the case with common assault.

In Tasmania prosecution is problematic because of a poor fit between the rules of evidence required by the court and the nature of a family violence incident where evidence may not be available to the appropriate standard. If there was no other evidence than the victim statement, police in most cases took care that this was as comprehensive as possible, with some Districts warranting that victim statements reflect the relevant items on the RAST. The justice system relies on victim statements, which when they are withdrawn, creates problems in proceeding with cases unless the offender pleads guilty.

Victim advocates in the current study were also critical that too few matters were proceeding to hearing, so any attrition rate is likely be far in excess of the numbers who actually make it to court. The data available to the *Review of the Integrated Response to Family Violence* in Tasmania was that the average rate of conviction for family violence matters was 68%, whereas for other serious matters the conviction rate was 72% (Success Works, 2009).

Annual figures were not provided in the Review document. The Department of Justice does not publish data regarding conviction, sentencing and breaching of orders. For comprehensive analysis to occur, it would be essential to compare reports to the police with substantiated claims and those

where the complaint is withdrawn. An examination of the Annual Reports of Tasmania Police over the five year period since the introduction of the *Safe at Home* policy shows that the amount of information provided has reduced each year. In the first year of *Safe at Home*, the Annual Report stated the number of reports and how many were deemed to be family violence, a family argument or an incident involving a non-significant relationship. The report detailed how many children were present and how many victims were pregnant at the time of the assault. Data was provided on the number of PFVOs created and the number of applications for FVOs, as well as how many breaches were recorded. In subsequent years the data has dwindled remarkably.

Table 17 Tasmania Police Data on Family Violence 2005-10

Data	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
Reports	4936	5023	4767	5057		
Family Violence	3662	3728	3407	3446	3107	2675
Family Argument	1088	1200		1568	1647	1627
Non-significant relationship	186					
Children at FV incidents	1195					
Victim pregnant	178					
PFVOs created	1751	1870				
FVOs breached	1025					
Variations to PFVOs	165	252				
FVO applications	704	647				

(Department of Police and Emergency Management (Tasmania), 2006, 2007, 2008, 2009, 2010).

Neither is it the case that the responsibility for this reporting has shifted from the Department of Police and Emergency Management (DPEM) to the Department of Justice (DoJ). The DoJ Annual Report for 2009-10 reports there has been a reduction in breaches of PFVOs of 17 per cent and FVOs of 23 per cent from the previous year – no whole numbers provided for comparison. The Department of Justice Annual Reports for 2007-08 and 2008-09 provided a textual description of the *Safe at Home* policy but no data on breaches or convictions. In 2010-11 reporting on *Safe at Home* improved with additional details of progress towards Tasmania Together Benchmarks. This report also commented on progress towards implementing the recommendations provided in the two independent evaluations of Tasmania's family violence intervention policy.

It is worth noting that whilst the Tasmanian government hails *Safe at Home* as an outstanding success because of these reductions in reports and number of family violence orders issued, victim advocates report that the majority of the cases of family violence reported to them have not reported the violence to the police and therefore would not be included in the *Safe at Home* statistics, suggesting that the reductions in these official figures is not sufficient cause to assume family violence in Tasmania is in decline.

While the orientations of police and the Courts towards a legal outcome are the same, the practical goals are different because of the inclusion of the risk

paradigm into police operations. Police are much closer to the context of the violence, being closer to the community in the social structure, and also they arrive at the scene of the incident as first response to the emergency.

Interactionist theory (Goffman, 1959, Blumer, 1969) suggests that any one police officer would behave similarly in response to many different incidents of domestic violence and different officers will respond to similar situations in similar ways. They interact with victims at the scene of the incident in response to the particular dynamics of the situation, using certain routines, working rules, institutional recipes and scripts to ensure some continuity. In the case of intimate partner violence their working rules might be 'due process', 'crime control' and would include 'risk assessment' under the current policy. The formal institutional recipes for action and decision-making are supported by the technologies of policing such as the forms; rules; regulations; documentary processes; communications; and technology (Shepard, 1999). However, the current study suggests that the execution of policies such as risk assessment and where the policy line is that 'the safety of adult and child victims are the first priority' are hampered by a 'backstage' undercurrent culture of victim blaming. Almost all the police officers consulted for this research, at all levels and from inexperienced to highly experienced, raised the discourse of the genuine victim. In some cases it was in relation to reporting, linked to the underclass storyline, where 20 per cent

of the population took up 80 per cent of police time. Individual value based decisions around risk intertwine with personal theories of why intimate partner violence occurs. There is a general lack of understanding among police of the dynamic of relationships that become violent, in particular of the intricacies of attachment. Even during the VSRT training, participants received a handout on *Love and Stockholm Syndrome* (Carver, 2004), but this material was not discussed by the presenters nor reinforced by other activities.

Police officers, in spite of training, hang onto victim blaming storylines and generate an institutional culture around suspicion of victims of family violence. This may be a cultural way of managing their workload, by triaging incidents depending on the likelihood of proceeding to prosecution. Other studies have pointed to tunnel vision by the police in relation to perpetrators; McConville and his colleagues found that the police in their study rarely made checks where the suspect's account pointed to their innocence. 'It is routine police work not to follow up evidence raised by an accused which may support a defence' (McConville et al., 1991:77). They also suggested that the police produce acquittals as well as convictions through poor investigation.

At the same time as discourses about genuine victims, there was a strong storyline circulating amongst police about the inability of the system to protect victims unless the perpetrator was behind bars. A large proportion of officers regarded family violence orders as ineffectual against a perpetrator

that was determined to do harm. This together with the lack of resources and increased accountability around police treatment of intimate partner violence, created cynicism amongst officers, but rather than an overt institutional culture around the difficulties inherent in policing family violence, the rhetoric turns on victims.

Victim ambivalence is cited as the main reason for the ineffectiveness of the system in preventing serious violence and homicide. However, research has shown that victims have various motivations for seeking police intervention, most of which are not related to punishing their partners through a strong criminal justice response such as has been introduced in Tasmania (Felson et al., 2002, Carcach, 1997). Advocates make the point that a victim's decision making is not the same as legal decision making; when victims call for help they are not calling to activate a criminal proceeding, they are usually trying to manage the immediate incident and stop the violence. What happens next depends on the dynamics of the individual relationship. Victims are often interdependent with or dependent on their abusers in both personal and economic dimensions and some perpetrators of intimate partner violence have a degree of control over their victims that effectively translates into control over the criminal justice intervention when they coerce them into withdrawing the complaint.

The proportion of victims who do wish to go through with a criminal justice prosecution for the violence also face additional legal issues such as custody and child contact in their cases, that may be settled in a different venue than the criminal court. Therefore, some scholars have argued that intimate partner violence cases require a modified frame of reference, or customised proceedings to address domestic abuse related violations. In particular, they suggest adjudication which involves community processing and community courts, both of which would address the underlying problem in its broader social context, its consequences, and relationships, rather than merely the specific incident or individual case (Erez, 2002). These ideas were supported by the majority of magistrates in this study. Magistrates in the Tasmanian response to intimate partner violence are generally critical of the system (Urbis, 2008, *The Mercury*, 23 May 2005). Two of the four magistrates interviewed for the study all espoused a move towards therapeutic jurisprudence for reducing intimate partner violence. However this approach was still firmly embedded in the ideology of a legal process. They defended any suggestion that the lengthiness of the process was detrimental to many victims' abilities to stay the course of the prosecution; as one magistrate informed me 'justice takes time'. Thus the machinery of the legal system is deemed inviolable in spite of suggestions that certain aspects of the process

may be detrimental to victim engagement and therefore potentially their safety.

The main agencies involved in the coordinated response to intimate partner violence in Tasmania, namely police, the legal fraternity and victim advocates, are players in a system which aims to integrate a number of competing professional and institutional rationalities. While they each have their distinct roles within the response to family violence, they also come together on a weekly basis to discuss the current caseload. I was denied permission to observe these committees in action and the reviews of *Safe at Home* (Urbis, 2008, Success Works, 2009) did not provide any assessment of the performance of the partnership in the response. Nonetheless the material raised in the interviews in this project would suggest that at times the viewpoints of the agencies involved must be diametrically opposed and the institutional power of the justice discourse most likely prevails.

7.6 RECENT THINKING ON RESPONSES TO INTIMATE PARTNER VIOLENCE

When Tasmania's Family Violence Act was introduced in 2004 along with the *Safe at Home* policy package it represented a most comprehensive and substantial change to addressing family violence in Tasmania and won a National Crime and Violence Prevention Award in 2009. While Tasmania Police already had a pro-arrest policy, the legislation and associated policy

increased police powers and provided for a comprehensive collaborative arrangement between police, the courts and the Department of Health and Human Services. The following section provides a brief update on recent literature around coordinated responses to intimate partner violence from the US and UK.

At the heart of coordinated and integrated responses to intimate partner violence are measures to increase perpetrator accountability and deterrents via a criminal justice response, augmented by a range of services to improve victim safety, including case management; legal and social services for victims. Coordinated responses have been found to have a weak effect on recidivism (Tolman and Weisz, 1995, Shepard et al., 2002, Murphy et al., 1998, Bouffard and Muftic, 2007).

Recent research using multiple sites and control sites reported that only a few criminal justice interventions have shown a weak deterrent effect with many having no effect (Peterson, 2008, Visher et al., 2008). Visher and her colleagues reported on initiatives in Massachusetts, Wisconsin and Michigan. At all these sites law enforcement initiatives included expanding training, introducing new policies relating to family violence arrests, protection order enforcement and improving interagency communications. Some sites included an intensive pre-trial monitoring component for offenders, or specialised court calendars that reserved intimate partner violence cases for certain days

of the week. Some of the sites in the Visher study contained significantly increased victim support services compared to *Safe at Home*, as well as providing offender monitoring prior to trial and also placed judges at the centre of the intervention. In spite of these intensive interventions, most victims suffered further violent incidents within 12 months, with one quarter experiencing a severe assault. Nor were there gains in victim participation in the court process or increases in perceptions of safety. The only reductions in recidivism occurred in the jurisdictions that returned offenders to prison on reoffending; so these offenders were unable to reoffend because they were incarcerated rather than reductions in offending gained through rehabilitation or deterrence. This study also suggests that offender rehabilitation programs were challenging to implement and did not show much progress in changing offender beliefs and behaviours. The small improvements that were found were in younger offenders (<30) and those with extensive arrest histories. Visher and her team also found that the benefits of a coordinated response were less obvious for victims.

Survey results indicate that interventions intended to improve victims' safety and overall wellbeing need to go beyond services centred on cases in the court system to include services that address issues in the victims' lives outside the realm of the court case. The efforts of victim service providers may be most fruitful when they focus on helping victims strengthen their social support networks and augment the positive consequence, while attenuating the negative impacts of abuse and its aftermath, such focus can be on

financial impacts (finding a job) practical issues such as moving, and helping the victims and their children cope with emotional trauma (Visher et al., 2008).

Klevens and Cox suggest that coordinated responses sometimes neglect to address the needs of the children of the victim and/or perpetrator and suggest that the addition of parenting skills programs would be useful in terms of long term prevention of intimate partner violence (Klevens and Cox, 2008). They also recommend that broader level coordinated community responses are well positioned to address the community norms that support violence.

A recent review of interagency forums for reducing intimate partner violence in the United Kingdom concluded that while coordinating councils can improve the quality of services offered to women and children, interagency work can act as a smokescreen, concealing the fact that little actually changes (Hague, 2000).

Garner and Maxwell (2008) comment on the lack of evidence for reduction in the rates of intimate partner violence in two multi-site studies of coordinated responses across the United States. They advise caution in concluding that these initiatives are not working as an alternative hypothesis might be that the research design used to evaluate the programs was not rigorous enough to identify the positive effects that were produced. They also note that the

evaluation design for the sites also reported on by Visher was grafted onto an existing within site assessment, which is generally regarded as weak practice in evaluation. However, they note that the landscape of coordinated responses is relatively new and these evaluations will contribute further to the debates around effective program design.

The above critiques of coordinated responses looked at the elements of a variety of interventions and assessed recidivism in terms of re-arrest as well as surveying victims' perceptions of their safety.

Peter Homel makes some important points about the British experience of implementing a national crime reduction program. This evaluation provided some significant lessons based on important practical assessments of need, capacity and readiness to adopt a whole-of-government approach:

1. Using whole-of-government approaches to crime prevention is not easy and need not automatically be the strategy of first choice as there are significant overheads involved. For example, undertaking a whole-of-government approach requires a significant amount of planning, investment in management infrastructure and ongoing support, particularly at the centre. As such it may often be better to use a modified or scaled down approach based on effective bilateral partnerships or joint inter-agency arrangements.
2. Decisions about the optimum strategic approaches and mechanisms employed to achieve policy goals should be the result of a comprehensive problem analysis and assessment of best practice/best

value evidence. In this situation it may be quite reasonable to adhere to the 'it is what works that matters' principle.

3. A whole-of-government approach requires a redefinition and renegotiation of some roles, responsibilities, relationships, accountabilities and power sharing. This means that there is also a need to adopt flexible performance management approach and change management processes.

Effective whole-of-government action means much more than good interagency cooperation and coordination. It has been observed that the notion of coordination was the twentieth century equivalent of the medieval search for the philosopher's stone. If only we could find the right formula for coordination, we could reconcile the irreconcilable, harmonise competing and divergent interests and overcome irrationalities in our government structures, and make hard policy choices to which none will challenge (Siedman quoted in O'Faircheallaigh et al., 1999).

Homel states that all too often, agencies particularly central agencies, report that whole-of-government strategies are proving effective simply because they are working together to meet joint objectives. Indicator and performance measures are number of meetings held and concluded and agreements struck. Unfortunately this completely misses the point, which should only be measured in terms of improved services and reduced crime particularly when looked at from the community's perspective (Homel, 2004).

My research has focused on the stories and discourses that exemplify different attitudes within and between the component groups of the whole-

of-government response. It became clear through the course of the interviews that a harmonious coordination was likely to be challenging and this was likely to have an impact on the ability of the system to fully protect victims. Community policing programs that have police as the dominant agency – over communities and community organisations – are problematic, as differences in levels of organisation, coordination and clarity of mission can lead to program failure (Hughes and Rowe, 2007, Pruegger, 2003). In many community-based programs there is a tendency of police to focus on their roles as problem solvers or community mobilisers. This is a “top down” mind-set, with police determining the strategy’s objectives. Further, within policing, Chappell (2009) argues that often executive policing adopts a particular philosophy and imposes targeted strategies onto operational policing, without adequately considering the competencies, training and resources required to undertake these approaches. While police in this research complained about lack of discretion because of the imposition of processes stipulated in the legislation, there was evidence that the main discourses identified above were used to justify individual officers’ behaviour around individual incidents.

7.7 THE IMPACT OF USING LEGISLATION FOR SOCIAL CHANGE

There are currently 89 countries with social policies that address domestic violence but only 44 countries have enacted legislation to make it a criminal offence (United Nations, 2007). Criminal philosophies slide between the

three aims of punishing offenders; efficiency and a belief in due process; and reform and the prevention of future behaviour (Rutherford, 1993, Walker and Boyeskie, 2001, Packer, 1968).

At the basis of the punishment theory is a view of people as rational, pleasure seeking creatures who can be deterred from engaging in anti-social behaviour by the prospect that the pain it brings will cancel out any pleasure gained.

There are three main reasons supporting criminalisation. The first is to send a message to the community that the behaviour is not acceptable by use of police or court documents that prescribe that the peace must be kept at the minimum end to incarceration for a serious offence at the maximum end.

The second reason to support criminalisation is that arrest has been found to deter some offenders; and thirdly, it enables the State to intervene in an area which was previous sheltered (beliefs about the privacy of the home, a man's home is his castle etc.). In this research, police officers suggested that perpetrators did not associate their actions with the probability that they would receive a penalty and therefore questioned the deterrent value of criminalisation:

He now has a criminal record [because of a conviction under the Family Violence Act], but I don't know that they would make the association with what you're calling criminalisation. It's just an event, like when you get caught driving a car, you get blown and they know records can be kept for that, and this is exactly the same. And I don't know that the term

criminalisation is, criminalisation is in the penalty that flows from it, but I don't believe people generally associate the two. Because it's not a term that the general public use, it's a term that people like you use. Some people would. Some people obviously worry about that, but generally speaking most would not worry too much. Educated people would be worried like 'now I'm going to have a criminal record' and they will whether they get breathalysed or whatever, but the general public, they take it as part of what happens in life. 'I've smacked the wife under the ear and I've got locked up, charged with assault and now I've got a restraint order'. They don't understand the complications. [Also because] it's not in the public arena, although it's a criminalised matter and it's recorded as a criminal matter, it's still not in the public arena. It's between the police and the people we're dealing with (Police Officer 6).

Manning (1993) called this assumption that deterrence works and works equally on all sections of society 'the preventive conceit'. This is one basic flaw of legislating for social change, particularly in a complex area such as intimate partner violence. This research suggests that what is happening in Tasmania can be considered a variation of Merton's 'Matthew effect' (1968) taken from the biblical Gospel of Matthew:

For to all those who have, more will be given, and they will have abundance; but from those who have nothing, even what they have will be taken away (Matthew 25:29).

In this case rather than the rich getting richer, it is that solutions devised for a certain category of medium-high risk victim (that wants to separate from their partner permanently) will benefit only that category of victim, and complicate

the lives of those victims who do not want a full criminal legal process engaged. It can also be as a result of jurisdictions adopting legislative and policy solutions from other jurisdictions to find that they do not work as well in the transplanted environment (Shepard, 2005).

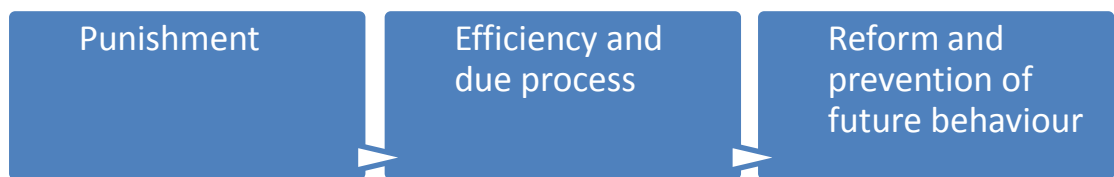


Figure 11 Aims of criminalisation

Carolyn Hoyle (1998) suggests that laws and policies may not translate directly into action because there may be gaps unless the full intent of the legislation is fully translated into rules and these gaps can be manipulated. She also warns that some laws might be followed by the letter but not the spirit – that is, technically complied with but not achieving the result for which the law designed. An example might be the large number of dual arrests for intimate partner violence in Tasmania (one-third of all arrests) (Success Works, 2009). Other laws and policies can be ignored or broken (Hoyle, 1998). Some also could be watered down, such as the full safety plans being produced for high risk victims only. The situation of the competing discourses is symptomatic of imposing a predominantly legal framework around a complex social problem.

7.8 CONCLUSION

There are substantial advantages in treating intimate partner violence as a crime because society should not treat any assault more leniently than another. Yet these crimes are unlike most acts for which society seeks punishment. These are crimes that take place within an intimate relationship, between two people who have professed to love each other, may have children together and are bound up in complex social and economic relationships. It is rare that one loves the person who mugs you at the automatic teller machine or burgles your house. The intimacy of the relationship complicates the efficiency of the criminal justice system, which despite the fact that domestic violence is hardly a new issue, is yet to work out a way to handle it. Police in this study estimated that between 20 and 30 per cent of victims wanted their partner or ex-partner arrested and charged and used the *Safe at Home* process to end the relationship. This indicates that 70-80 per cent of victims do not want this uniform criminal justice intervention and so complaints are withdrawn and charges are dropped. This attrition might be for a myriad of reasons; whether the victim still loves the offender, has been manipulated into dropping the charges or perhaps because life is just too hard with your partner in remand. And yet the single fact of having the complaint withdrawn may not be because the incident has not occurred or will not reoccur at some stage in the future.

Some of the issues agreed upon in designing a response to family violence underscore a realisation that the phenomenon of intimate partner violence implicates social structural factors which cannot necessarily be addressed through criminal justice interventions; that attempts to rely on law enforcement alone to handle the problem are not likely to produce a sustained change in the perpetrator's behaviour; and that the problem might be best addressed with an integrated community approach. There are so many interconnections between the structural, interpersonal and cultural factors affecting domestic violence which require management in a comprehensive and integrated framework. A cornerstone of contemporary policing is community policing which involves community partnerships. Pulling together additional resources and improving the coordination of efforts and increased case management is seen as a 'best practice' response to domestic violence.

The role of police in an integrated approach remains primarily one of enforcement of the law. Policing incidents of domestic violence involves sifting through complex situations, often characterised by considerable ambiguity. This presents significant challenges to police regarding collection of evidence, appropriate arrests and charges, and processing cases through to prosecution.

This research highlighted a number of issues with the implementation of a whole-of-government strategy for intimate partner violence using a grounded theory approach. Some police officers reported inconsistencies in approaches to risk assessment and irregular understanding of the conditions on family violence orders; and this was supported by feedback from both legal professionals and victim advocates. Police have long been accused of having a negative attitude to attending domestic violence incidents as they believed their main focus should be on fighting 'real' crime (Reiner, 2000). Legalistic conceptions of policing assume that the implementation of a new framework and a new policy will lead to a change in police behaviour; however the key point is that the officers internalise and act on the training they have received. Police managers need to acknowledge that deviations will occur that are caused by formal and informal cultures of policing and their related discourses. If training is formal, it needs to be followed up by supervision and internal accountability because without it, the training does not become integrated into the officers' activities. Police training around family violence, in particular that of new recruits and early career officers, would be significantly enhanced with the addition of experiential sessions which involve officers attending an incident and completing a risk assessment, and more importantly, that a more creative way of presenting the material on the potential for both victim and offender to engage in minimisation and denial is

devised. Given the organisational culture of victim blaming, I would see this as an important component of all training around family violence.

As the current trend is for governments to implement coordinated, integrated or whole-of-government policies for complex social problems, it is critical to ensure that the organisational and strategic approaches which adopted are based on sound evidence and a proper analysis of what is required to ensure effective implementation. The development of Tasmania's *Safe at Home* policy was carefully researched and launched with a significant budget for this small regional economy. However, the ongoing resourcing of the initiative has required continued expansion, and this has not always occurred. A range of participants were critical of the ongoing resourcing of *Safe at Home*, not only in relation to police staffing levels, but also in terms of staffing of counselling services, court support services and a general lack of emergency housing around the state.

One way forward for *Safe at Home* might be to investigate all the available research on each component in the process as well as some systematic feedback from victims as to what components were found to be helpful or harmful. Investigation of shorter term police family violence orders, with mandated counselling, and long term case management would be worth pursuing.

However, as well as insights into issues with the implementation of the policy, this research has identified that even with an integrated approach, there are ideological and discursive barriers which prevent the *Family Violence Act 2004* and its associated policy from achieving its objectives for the full spectrum of victims of intimate partner violence. Power is dispersed throughout society and exercised via discipline, surveillance, and discourses of individualisation and normalisation (Sim, 1990). The continuum of power/knowledge forms the basis of all formal and official discourses—including language, logic, and the ways of defining and classifying things, measurement and empiricism and the process of normalisation. Professionals employ their techniques and vocabulary of their discipline and thereby reproduce the knowledge and the means to maintain the dominant power relationships within a discourse coalition. In the arena of intimate partner violence three main discourse coalitions were identified – the risk management coalition, the justice coalition and the genuine victim coalition. The justice discourse emerged as dominant and fully institutionalised and subsequently hinders the capacity of victim services in the integrated response to fully meet victims' needs, in particular those victims who do not want a criminal justice outcome. The discourse of the genuine victim, overtly via generically propounded storylines, and covertly via its sublimation into the justice and risk assessment discourses, simultaneously socially constructs, stigmatises and traumatises

victims and ultimately counteracts the stated objectives of the legislation and associated policy. Even though the genuine victim discourse does not meet the criteria for institutionalisation, it wields formidable power within the discourse coalitions around intimate partner violence. Without a more flexible approach to intimate partner violence, which acknowledges that a criminal justice pathway is not meeting the needs of the majority of victims, and addresses the underlying causes of intimate partner violence, its roots and antecedents, a meaningful and sustained change in the extent of the problem is not likely to occur.

7.9 CONTRIBUTIONS OF THE THESIS

This research has made a contribution to the body of research around intimate partner violence in terms of highlighting barriers to successful implementation of an integrated policy through the identification of institutional and personal discourses that impact on the implementation of best practice programs. Many of the discourses are not new, nor are the systemic barriers that they create for victims; however this research demonstrates how complex, enduring and resistant these discourses are, in spite of an integrated response which has been modelled on international best practice.

This work is the first qualitative analysis of an integrated response in Australia.

This research commenced shortly after *Safe at Home* was launched and this was the first of the whole-of-government strategies in Australia.

This work not only has implications for policing intimate partner violence but also other types of anti-social behaviours. Partnerships are currently regarded as best practice for tackling complex social problems and the concepts of discourse institutionalisation and discourse coalitions may prove to have value in understanding the dynamic in other areas. The research has also made a contribution to sociology and criminology by applying the concepts of discourse coalitions and discourse institutionalisation in a sociological and criminological context. Hajer's theories were developed in the area of environmental policy and the current research has demonstrated their utility in the applied social sciences.

7.10 LIMITATIONS

Ideally, ethnographic methods are optimally employed when the researcher can spend substantial time in the field. While the research methodology was based on ethnographic methods, the actual time spent in the field was quite short. Delays in the approval process for getting access to police officers and environments meant that fieldwork did not commence until halfway through the third year of this research. This resulted in a bottleneck of activity towards the latter end of the full time candidature and resulted in subsequent

delay in writing up the research. However, using a grounded theory approach and discourse analysis (in the broadest definition of the term) was found to be the most appropriate way to distil the findings from the large amount of data generated by the research.

I was committed to adopting a feminist approach in this research project; my aim was to illustrate the importance of language in constructing the environment in which the *Safe at Home* policy was operating. With my extensive reading of the literature around intimate partner violence I was alert to the particular attitudinal stance of each research participant, while at the same time trying not to be judgemental. However, as a woman confronted with the plight of female victims, at times I was frustrated by the attitudes of the people whose job it was to dispense justice. The methodology employed in the research was designed to expose the conflict between agency culture, individual world views and policy direction and to provide some insight into the implementation of a radical change to the way intimate partner violence was treated in Tasmania. Due to the relatively small size of the jurisdiction, the number of individuals in each area was small and thus did not allow for fully randomised selection of informants. Due to limited access to data, restrictions on the sites for observation and difficulties in recruiting informants for interview, the research design was

changed many times in order to accommodate these challenges (Blaikie, 2000).

It could be argued that the research data used in this study is limited to illuminating the problems associated with implementing the policy within selected groups of actors of the coordinated response. It was decided not to expand the investigation into the services for children present at family violence incidents as this is yet another vast area of research. According to Blaikie, limiting the focus to three main groups might also be seen as a strength, as it enabled deeper focus on police, the legal fraternity and victim advocates.

7.11 FUTURE RESEARCH

In spite of almost four decades of research the study of intimate partner violence still requires substantial research effort to improve our understanding of management and early intervention. More data is required on a range of issues in the Tasmanian context including the provision of data similar to that provided by the Bureaus of Crime Statistics and Research in other Australian states.

It would be useful to conduct a comparative study of integrated responses in different Australian jurisdictions to gain a better understanding of what works in the context of this country as there are variations in the laws in each State and Territory. This thesis suggested that an analysis is performed whereby

cases are tracked from initial reports to finalisation or the point of attrition to both inform the literature on the proportion of claims that are substantiated or dismissed and also to investigate the trigger points for attrition. Such research might also investigate pathways to reporting, if as Millbank (2000) suggests, up to twenty incidents may have occurred before the police are called. In the Tasmanian policy context, it might be useful to conduct some case studies of victims from different socio-economic groups to improve our understanding of barriers to reporting and staying connected to the system. This might include developing a survey of victims to ascertain their understanding of the conditions on family violence orders and what constitutes breaching. There is also the potential to use the discourse coalition framework for studying the criminal justice management of other types of anti-social behaviour.

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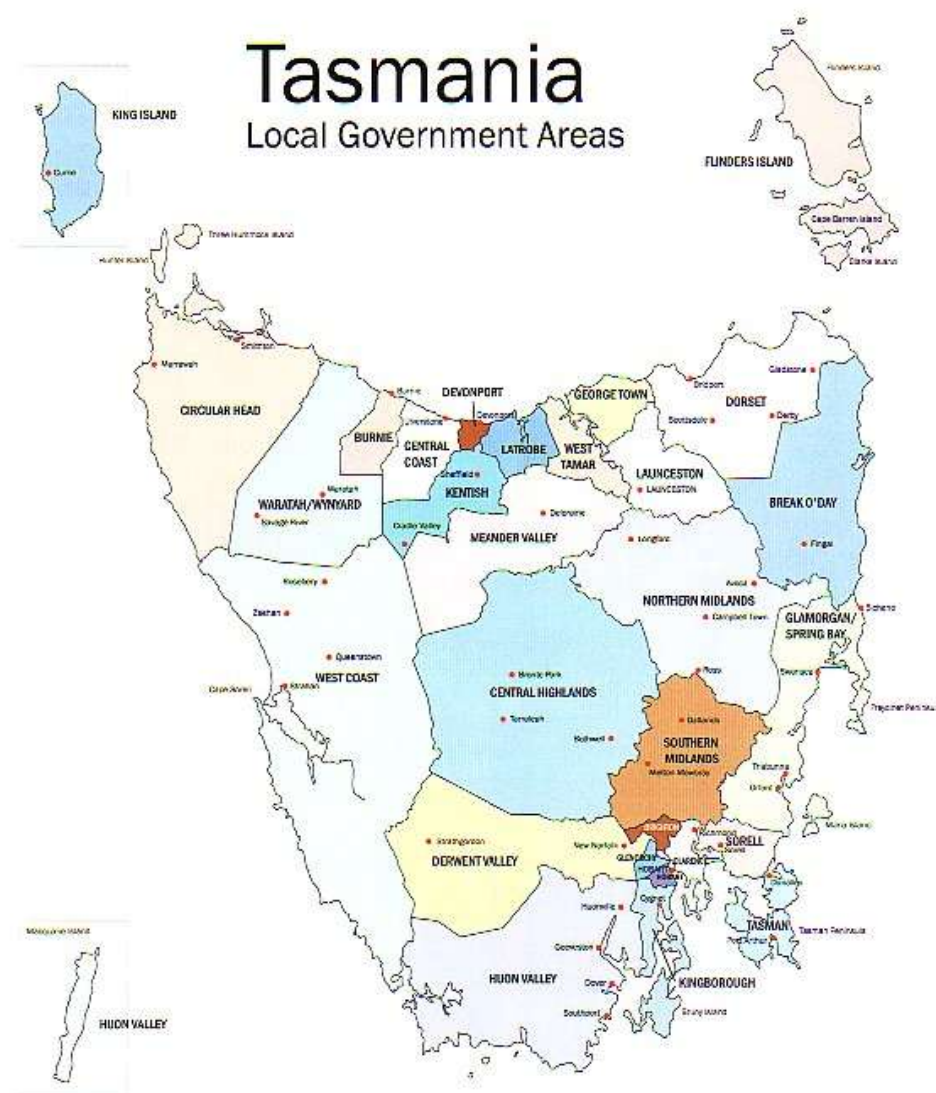
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Appendix A

MAP OF POLICE DISTRICTS, TASMANIA



Police District Boundaries

Southern District: Hobart, Kingborough, Huon Valley, Glenorchy.

Eastern District: Clarence, Brighton, Derwent Valley, Southern Midlands, Central Highlands, Sorell, Tasman, Glamorgan/Spring Bay.

Northern District: Launceston, Flinders, West Tamar, Northern Midlands, Meander Valley, Break O'Day, Dorset, George Town.

Western District: Burnie, Circular Head, King Island, Waratah/Wynyard, Devonport, Central Coast, Latrobe, Kentish, West Coast.

Appendix B APPROVAL FROM COMMISSIONER



COMMISSIONER'S OFFICE
47 Liverpool Street Hobart
[GPO Box 308]
HOBART TAS 7001
Phone (03) 6230 2111
Fax (03) 6230 2117

Our Ref: A07/4818
Your Ref:
Enquiries:

1 May 2007

Ms Romy Winter
Private Bag 22
HOBART TAS 7001

Dear Ms Winter

TILES RESEARCH PROJECT – INTIMATE PARTNER VIOLENCE

Thank you for your correspondence received 4 April 2007.

I advise that Tasmania Police supports your research and is prepared to make Police Officers available to you for interview.

The fact that your research has received ethics approval, together with the details in the Information Sheet, assures me the research will be ethically conducted.

I am aware that you have signed a Confidentiality Agreement and I confirm that it applies to this research. I can also confirm that the draft correspondence under my hand is suitable to be included with the Information Sheet.

Please direct any enquiries to the TILES Executive Officer, Ms Megan Archer, on 6230 2195 or tiles@utas.edu.au.

I wish you all the best with your research and look forward to your report. Intimate Partner Violence is an issue well worth researching.

Yours sincerely

A handwritten signature in black ink, appearing to read "R McCreddie".

R McCreddie
COMMISSIONER OF POLICE

A-198

Appendix C **MEMORANDUM COMMISSIONER'S OFFICE**



COMMISSIONER'S OFFICE

Our Ref – A07/9616

TO: DEPUTY COMMISSIONER OF POLICE
FROM: DETECTIVE INSPECTOR M P RICHMAN
SUBJECT: RESEARCH: RISK MANAGEMENT IN INTIMATE PARTNER VIOLENCE

NOTED:

.....

RETURN TO:

Inspector Matthew Richman

J JOHNSTON

Deputy Commissioner of Police

July 2007

RECOMMENDATION:

- That you note this briefing note.

SITUATION:

- As you are aware, family violence has been a significant issue for Tasmania Police. In recent years, we have significantly altered our policy and process for dealing with these incidents, our action being guided by significant legislative change.
- The Tasmanian Institute of Law Enforcement Studies (TILES) has undertaken considerable research in this area. Ms Romy Winter, a PhD candidate, is undertaking a project entitled Risk Management in Intimate Partner Violence.
- Ms Winter will be conducting interviews in your district over the next month. The officers requested to participate have been advised that the Commissioner of Police supports the research.
- The officers have been randomly selected. Ms Winter will contact them direct and their responses will be treated in the strictest confidence.

M P RICHMAN

Deputy Inspector

Appendix D INFORMATION SHEETS POLICE



INFORMATION SHEET FOR TASMANIA POLICE PERSONNEL

MANAGING RISK IN INTIMATE PARTNER VIOLENCE

TILES, which is part of the University of Tasmania, is undertaking an investigation into the measurement and management of risk in the area of intimate partner violence. The research will be part of a PhD study undertaken by Ms Romy Winter, under the supervision of Associate Professor Roberta Julian. The Commissioner has approved interviews with members of Tasmania Police as part of the research. We are also interviewing members of the Magistrates Court and a number of victims of intimate partner violence.

In the past few decades intimate partner violence has elicited a great deal of attention from the research, clinical practice and policy communities. There is no longer any debate about the seriousness of the problem or its impacts. However there remain significant gaps in our knowledge on the ways and means of intervention and prevention. Whilst there have been a number of factors which have proved useful as predictors of reabuse and these have been used by the health and criminal justice systems to assess risk, improve victim services, design sanctions and offender programs and so on, and research into risk factors has identified a vast array of influences which can result in intimate partner violence.

This research will use interviews with police officers to explore perceptions of risk in relation to intimate partner violence and also use of the RAST (including decision making processes) to obtain a greater understanding of the management of risk in the field. The victim interview component will contribute to our understanding of the management of risk of intimate partner violence within the relationship and particularly the factors and contexts that promote and precipitate reporting. The interviews with magistrates will explore understanding of the risks and their management at the court level.

If you are interested in participating in this project we would like to interview you at a time that is convenient for you. There is a short pre-interview questionnaire to fill out with basic information such as your age, gender and

rank. The actual interview will last for about 45 minutes and will cover such areas as - your experience with Family Violence Training and domestic violence call outs, your experience and views on current policy and interventions including barriers to implementation as well as positive factors. The interview will also investigate the prevalence of risk factors from your experience and your preference for intuitive assessments vs instruments such as the RAST.

Participation is entirely voluntary and you can withdraw at any time.

With your consent the interview will be recorded. The recording will be destroyed after you have approved the accuracy of the transcript. Transcripts will be de-identified and stored in a secure place for five years and then destroyed. You may also have data from the interview withdrawn if you wish. You may choose not to answer questions.

The data from this project will be mainly produced in thematic form and if quotes are included we will protect your identity by using a codename or pseudonym. A final summary of the results of the study can be provided on request to the researchers.

You will be asked to sign a consent form to evidence your willingness to participate in this research, and you will be provided with a copy of this information sheet and the consent form to keep.

This research has received ethical approval from the Human Research Ethics Committee (Tasmania) Network. If you have any concerns about the ethics of the interview or the research process please contact the Executive Officer Marilyn Pugsley on (03) 62267479.

If you are interested in participating in this study or have any further questions please contact:

Chief Investigator
Associate Professor Roberta Julian
Email: Roberta.Julian@utas.edu.au
Ph (030) 62262331

PhD Researcher
Romy Winter
Email: Romy.Winter@utas.edu.au
Ph (03) 62262393

Appendix E CONSENT FORM POLICE



Tasmania Police Personnel Interview Participation The Management of Risk in Intimate Partner Violence

1. I have read and understood the 'Information Sheet' for this study.
2. The nature and possible effects of the study have been explained to me.
3. I understand that the study involves my participation in an interview for approximately two hours at a venue to be decided. The topics will cover issues of risk and related factors in Intimate Partner Violence.
4. I understand the interview will be recorded and transcribed. I understand that all research data will be securely stored on the University of Tasmania premises for a period of 5 years. The data will be destroyed at the end of 5 years.
5. I understand that I can make a request for a transcript of the interview for editing or modification.
6. Any questions that I have asked have been answered to my satisfaction.
7. I agree that research data gathered for the study may be published provided that I cannot be identified as a subject
8. I agree to participate in this investigation and understand that I may withdraw at any time or withdraw data without any effect to my participation in the study.

Name of participant _____

Signature of participant _____ Date _____

9. I have explained this project and the implications of participation in it to this volunteer and I believe that the consent is informed and that he/she understands the implications of participation.

10.

Name of investigator Romy Winter

Signature of investigator _____ Date _____

Appendix F PRE INTERVIEW QUESTIONNAIRE POLICE

In which area of the State are you located? (please tick one)

☐ South ☐ North ☐ North West ☐ Midlands ☐ East Coast

Your age group (please tick one category below)

☐ 18-24 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55-64

Your gender ☐ Female ☐ Male

Where were you born? (please tick one)

☐ Australia ☐ UK ☐ Europe
☐ Africa ☐ Asia ☐ US/Canada
☐ Pacific (NZ) ☐ South America

☐ Other _____

Aboriginal/TSI background? ☐ Yes ☐ No

Do you have children? ☐ Yes ☐ No

..... Boys Ages

..... Girls Ages

Are you ☐ married ☐ de facto ☐ dating
☐ Separated ☐ divorced ☐ widowed

What is your current rank? (please tick the one which applies to you)

☐ ☐ ☐
☐ ☐ ☐
☐ Other _____

What is the highest level of education you completed before joining the Police Force? (please tick one)

☐ High School ☐ Yr 12/HSC ☐ Cert II/III/IV
☐ Diploma ☐ Degree ☐ Postgraduate

How long have you been in the Police Force? _____

Your residential postcode _____

Appendix G **DISCUSSION GUIDE POLICE**

Preamble

This research project is part of a PhD project with TILES, which is part of the University of Tasmania and about exploring issues around police response to violence in people's relationships. These may include what you know about the risk factors involved and how you deal with various issues when responding to a family violence incident. Your participation will be entirely voluntary and we will be interviewing a number of officers around Tasmania about these topics as part of the study.

This interview will last for about 45 minutes. All information collected will be confidential; that is we will not record your name on the information we collect and any data published in reports will not identify anyone who helped with the research. We need your consent to do this. No one outside this room will know anything about what you have said. If there is an incident that is mentioned we will not refer to it in a way that you or anybody else could be identified.

I would like to tape record the interview to maximise clarity. The recordings will be de-identified to protect your privacy. All tapes and data will be securely stored on the University of Tasmania premises for a period of 5 years and then destroyed.

Each interview covers similar ground but details will be slightly different depending on the issues we cover according to your own experiences. The content of the interview will be generally presented as themes but if quotes are used it would only be if you or anyone else could not be identified.

Participation is entirely voluntary and you can withdraw at any time. You may also have data from the interview withdrawn if you wish. You may choose not to answer questions.

This research has received ethical approval from the University's Human Research Ethics Committee. If you have any concerns about the ethics of the interview or the research process you can contact this Committee.

You need to sign a consent form to evidence your willingness to participate in this research, and you will be provided with a copy the consent form to keep.

Are there any questions?

Each interview will be slightly different depending on the issues that come up but we need some basic information from all interviewees (cf Police Pre Interview Questionnaire). Please note that we don't record your name or any identifying details on these forms.

Police Officer Questioning Route

Introductory questions about police career

Training – length, recency

Experiences with domestic violence call outs

Exploration regarding assumptions about accountability and culpability

Exploration about current policy and interventions

Barriers to implementation

Positive factors

Prevalence of risk factors

Intuitive assessments vs RAST

Personal knowledge of intimate partner violence

What factors prevalent?

Outcomes?

What needs to change to improve matters?

Appendix H INFORMATION SHEETS FOR MAGISTRATES



Information Sheet for Magistrates

Risk in Intimate Partner Violence

TILES, which is part of the University of Tasmania, is undertaking an investigation into the measurement and management of risk in the area of intimate partner violence. The research will be part of a PhD study undertaken by Ms Romy Winter, under the supervision of Associate Professor Roberta Julian.

As part of the research we would like to interview members of the magistrates Court. We are also interviewing members of Tasmania Police and a number of victims of intimate partner violence. Participation in the study would give you a chance to tell us what you think of various factors and issues around intimate partner violence and policing.

In the past few decades intimate partner violence has elicited a great deal of attention from the research, clinical practice and policy communities. There is no longer any debate about the seriousness of the problem or its impacts. However there remain significant gaps in our knowledge on the ways and means of intervention and prevention. Whilst there have been a number of factors which have proved useful as predictors of reabuse and these have been used by the health and criminal justice systems to assess risk, improve victim services, design sanctions and offender programs and so on, and research into risk factors has identified a vast array of influences which can result in intimate partner violence.

The interviews with magistrates will explore understanding of the risks and their management at the court level. The Police Officer interviews will explore perceptions of risk in relation to intimate partner violence and also use of the Risk Assessment Screening Tool (RAST) in the field (including decision making processes) to obtain a greater understanding of the management of risk in the field. The victim interview component will contribute to our understanding of the management of risk of intimate partner violence within the relationship and particularly the factors and contexts that promote and precipitate reporting.

If you are interested in participating in this project we would like to interview you at a time that is convenient for you. The interview will last for about 45 minutes and will cover such areas as - your experience with family violence within the Court System, your experience and views on current policy and interventions including barriers to implementation as well as positive factors. The interview will also investigate the prevalence of a range risk factors associated with intimate partner violence from your experience and your impression of risk management tools such as the RAST.

Participation is entirely voluntary and you can withdraw at any time.

With your consent the interview will be recorded. The recording will be destroyed after you have approved the accuracy of the transcript. Transcripts will be de-identified and stored in a secure place for five years and then destroyed. You may also have data from the interview withdrawn if you wish. You may choose not to answer questions.

The data from the project will be mainly produced in thematic form. We will avoid using quotes or refer to incidents that are potentially attributable to any individual Magistrate. A final summary of the results of the study can be provided to you on request

You will be asked to sign a consent form to evidence your willingness to participate in this research, and you will be provided with a copy of this information sheet and the consent form to keep.

This research has received ethical approval from the Human Research Ethics Committee (Tasmania) Network. If you have any concerns about the ethics of the interview or the research process please contact the Executive Officer Marilyn Pugsley on (03) 62267479.

If you are interested in participating in this study or have any further questions please contact:

Chief Investigator

Associate Professor Roberta Julian

Email: Roberta.Julian@utas.edu.au

Ph (030) 62262331

PhD Researcher

Romy Winter

Email: Romy.Winter@utas.edu.au

Ph (03) 62262393

Appendix J **DISCUSSION GUIDE MAGISTRATES**

Preamble

This research project is part of a PhD project with TILES, which is part of the University of Tasmania and about exploring issues around the criminal justice systems response to violence in people's relationships. These may include what you know about the risk factors involved and how you deal with various issues when dealing with a family violence incident in Court. Your participation will be entirely voluntary and we will be interviewing magistrates and a number of Police officers around Tasmania about these topics as part of the study.

This interview will last for about 45 minutes. All information collected will be confidential; that is we will not record your name on the information we collect and any data published in reports will not identify anyone who helped with the research. We need your consent to do this. No one outside this room will know anything about what you have said. If there is an incident that is mentioned we will not refer to it in a way that you or anybody else could be identified.

I would like to tape record the interview to maximise clarity. The recordings will be de-identified to protect your privacy. All tapes and data will be securely stored on the University of Tasmania premises for a period of 5 years and then destroyed.

The content of the interview will be generally presented as themes but if quotes are used it would only be if you or anyone else could not be identified.

Participation is entirely voluntary and you can withdraw at any time. You may also have data from the interview withdrawn if you wish. You may choose not to answer questions. Each interview covers similar ground but details will be slightly different depending on the issues we cover according to your own experiences.

This research has received ethical approval from the University's Human Research Ethics Committee. If you have any concerns about the ethics of the interview or the research process you can contact this Committee.

You need to sign a consent form to evidence your willingness to participate in this research, and you will be provided with a copy the consent form to keep.

Are there any questions?

Magistrate Questioning Route

Introductory questions about legal career

Experiences with domestic violence cases

Exploration regarding assumptions about accountability and culpability

Exploration about current policy and interventions

Barriers to implementation

Positive factors

Prevalence of risk factors – knowledge about risk assessment practices

Intuitive assessments vs RAST

Explore gender stereotypes, romantic and other relationship discourses and other membership categories

Personal knowledge of intimate partner violence

What factors prevalent?

Outcomes?

What needs to change to improve matters?

Appendix K LETTER OF INVITATION KEY INFORMANTS



Date

Name and address

Dear Name

Managing Risk in Intimate Partner Violence

TILES, which is part of the University of Tasmania, is undertaking an investigation into the measurement and management of risk in the area of intimate partner violence. The research will be part of a PhD study undertaken by Ms Romy Winter, under the supervision of Associate Professor Roberta Julian. As part of the research we would like to interview you.

We would like to invite you to participate in the study by taking part in an interview with the research student. Involvement in the study would provide an opportunity to tell us what you think of issues relating to intimate partner violence and the way they are dealt with by the criminal justice system and associated bodies. We are also interviewing police, magistrates and other personnel involved in managing risk and safety of child and adult victims of family violence.

To do this the researcher would like to talk to you at a time that is convenient in the next few weeks. We anticipate that the interview will last for approximately 45 minutes. All information collected and any data published in reports, academic journals and the final thesis will not identify anyone who helped with the research.

A detailed information sheet is attached for your consideration. If you have any further questions or to nominate your interest in participating in the project, please contact:

Chief Investigator

Associate Professor Roberta Julian

Email: Roberta.Julian@utas.edu.au
Romy.Winter@utas.edu.au

Ph (03) 62262331

PhD Researcher

Romy Winter

Email:

Ph (03) 62262393

Appendix L INFORMATION SHEETS KEY INFORMANTS



INFORMATION SHEET FOR KEY INFORMANTS

RISK IN INTIMATE PARTNER VIOLENCE

TILES, which is part of the University of Tasmania, is undertaking an investigation into the measurement and management of risk in the area of intimate partner violence. The research will be part of a PhD study undertaken by Ms Romy Winter, under the supervision of Associate Professor Roberta Julian.

As part of the research we would like to interview other personnel working in the area of risk and safety associated with intimate partner violence or 'Key Informants' who may work in agencies, government departments and the non government sector. We are also interviewing members of Tasmania Police and the Magistrates Court. Participation in the study would give you a chance to tell us what you think of various factors and issues around intimate partner violence and policing.

In the past few decades intimate partner violence has elicited a great deal of attention from the research, clinical practice and policy communities. There is no longer any debate about the seriousness of the problem or its impacts. However there remain significant gaps in our knowledge on the ways and means of intervention and prevention. Whilst there have been a number of factors which have proved useful as predictors of reabuse and these have been used by the health and criminal justice systems to assess risk, improve victim services, design sanctions and offender programs and so on, and research into risk factors has identified a vast array of influences which can result in intimate partner violence.

The interviews with magistrates will explore understanding of the risks and their management at the court level. The Police Officer interviews will explore perceptions of risk in relation to intimate partner violence and also use of the Risk Assessment Screening Tool (RAST) in the field (including decision making processes) to obtain a greater understanding of the management of risk in the field.

If you are interested in participating in this project we would like to interview you at a time that is convenient for you. The interview will last for about 45 minutes and will cover such areas as - your experience with family violence, your experience and views on current policy and interventions including barriers to implementation as well as positive factors. The interview will also investigate the prevalence of a range risk factors associated with intimate partner violence from your experience and your impression of risk management in this area.

Participation is entirely voluntary and you can withdraw at any time.

With your consent the interview will be recorded. The recording will be destroyed after you have approved the accuracy of the transcript. Transcripts will be de-identified and stored in a secure place for five years and then destroyed. You may also have data from the interview withdrawn if you wish. You may choose not to answer questions.

The data from the project will be mainly produced in thematic form. We will avoid using quotes or refer to incidents that are potentially attributable to any individual Magistrate. A final summary of the results of the study can be provided to you on request

You will be asked to sign a consent form to evidence your willingness to participate in this research, and you will be provided with a copy of this information sheet and the consent form to keep.

This research has received ethical approval from the Human Research Ethics Committee (Tasmania) Network. If you have any concerns about the ethics of the interview or the research process please contact the Executive Officer Marilyn Pugsley on (03) 62267479.

If you are interested in participating in this study or have any further questions please contact:

Chief Investigator

Associate Professor Roberta Julian

Email: Roberta.Julian@utas.edu.au

Ph (030) 62262331

PhD Researcher

Romy Winter

Email: Romy.Winter@utas.edu.au

Ph (03) 62262393

Appendix M CONSENT FORM KEY INFORMANTS



CONSENT FORM

KEY INFORMANT INTERVIEW PARTICIPATION

The Management of Risk in Intimate Partner Violence

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1. I have read and understood the 'Information Sheet' for this study.
 2. The nature and possible effects of the study have been explained to me.
 3. I understand that the study involves my participation in an interview for approximately forty five minutes at a venue to be decided. The topics will cover issues of risk and related factors in Intimate Partner Violence.
 4. I understand that all research data will be securely stored on the University of Tasmania premises for a period of 5 years. The data will be destroyed at the end of 5 years.
 5. I understand the interview will be recorded and transcribed and that the audio files will be destroyed on my approval of the transcript. I understand that transcripts will be de-identified and that the transcript of the interview will be made available to me for editing or modification.
 6. Any questions that I have asked have been answered to my satisfaction.
 7. I agree that research data gathered for the study may be published provided that I am not identified as a subject.
 8. I understand that the researchers will maintain my identity as a participant in this study confidential and that any information I supply to the researcher(s) will be used only for the purposes of the research.
 9. I agree to participate in this investigation and understand that I may withdraw at any time or withdraw data without any effect to my participation in the study.

Name of participant _____

Signature of participant _____ Date _____

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10. I have explained this project and the implications of participation in it to this volunteer and I believe that the consent is informed and that he/she understands the implications of participation.

Name of investigator Romy Winter _____

Signature of investigator _____ Date _____

Appendix N **DISCUSSION GUIDE KEY INFORMANTS**

PREAMBLE

This research is part of a PhD project with TILES, at the University of Tasmania exploring issues around the criminal justice system's response to violence in people's relationships.

Issues to be explored in this interview may include what you know about the risk factors involved and how you deal with various issues when dealing with intimate partner violence cases in your work.

We appreciate you volunteering to take part in this study. We will be interviewing other people working in this area including magistrates and a number of Police officers around Tasmania about these topics as part of the study. A number of victims will also be interviewed to explore how they manage the risks within their relationships. This interview will last for about 45 minutes.

All information collected will be confidential; that is we will not record your name on the information we collect and any data published in reports will not identify anyone who helped with the research. If there is an incident that is mentioned we will not refer to it in a way that you or anybody else could be identified.

I would like to tape record the interview to maximise clarity. Because voice recordings are potentially identifiable, the recordings will be destroyed as soon as they are transcribed to protect your anonymity and you have had the opportunity to verify the contents of the transcripts. The transcripts and other data relating to the study will be securely stored on the University of Tasmania premises for a period of 5 years and then destroyed.

The content of the interview will be generally presented as themes but if quotes are used it would only be if you or anyone else is not identified by name.

Participation is entirely voluntary and you can withdraw at any time. You may also have data from the interview withdrawn if you wish. You may choose not to answer questions. Each interview covers similar ground but details will be slightly different depending on the issues we cover according to your own experiences.

This research has received ethical approval from the Human Research Ethics Committee (Tasmania) Network. You can contact the Ethics Executive Officer,

Nadia Majouri, with any concerns or complaints regarding the way this research is being conducted.

We ask you to sign a consent form to evidence your willingness to participate in this research, and you will be provided with a copy the consent form to keep. Are there any questions?

QUESTIONING ROUTE

Introductory questions about career

Exploration about current policy and interventions

- Where does their role fit?
- Barriers to implementation
- Positive factors

Risk factors

- What factors emerged as prevalent?
- How are they managed?
- Outcomes?

Risk in the criminal justice system

- Knowledge about how risk is assessed and managed?
- Have they had experience with the Tasmania Police Risk Assessment Screening Tool (RAST)?
- What do they know about false positives and negatives?
- What do they know about its use in the field?
- Strengths and weaknesses
- Intuitive assessments vs RAST

Experiences with intimate partner violence cases

- Explore gender stereotypes, romantic and other relationship discourses and other membership categories including victim blaming

Personal knowledge of intimate partner violence

What needs to change to improve matters?